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Current Topics.

The Law Society: Annual General Meeting.

A REPORT of the Annual General Meeting of The Law Society, which took place on the 8th July, appears on p. 587 of the present issue. It will, therefore, be unnecessary to make extended reference here to the several matters dealt with by the retiring President, Sir FRANCIS SMITH (who took the chair) in the course of his speech. It should, however, be noted that the Council proposes to continue its activities with the object of securing for district registries unlimited jurisdiction to deal with divorce petitions, and, as opportunity presents itself, to pursue its views in relation to the salaries of Chancery Masters which, it is contended, should be increased to accord with the recent increase in the salaries of King's Bench Masters; while readers may be reminded of the activities of the Council during the past year in connection with the inclusion of solicitors of not less than ten years' standing among legally qualified persons to act as chairmen and deputy-chairmen of quarter sessions under the Administration of Justice (Miscellaneous Provisions) Bill, and also in connection with the publication of a new "Digest" including in one volume the old "Solicitors' Remuneration Digest" and the old "Law, Practice and Usage in the Solicitors' Profession." But the item of principal interest is undoubtedly the statement made by the chairman on the conclusion of the business meeting concerning the steps which the Council has decided to take to prevent defalcation by solicitors. This matter has been one of anxious concern for some time past, and a large number of suggestions have been put forward. The urgency of the problem has not, however, led the Council into precipitate action (which might have been ineffective or worse) and the present plan has been formulated after taking the opinion of all the provincial law societies and considering all the suggestions it has received from members. The scheme involves the setting up of a permanent legal department of The Law Society under the control of a solicitor in the whole-time employ of the Society to undertake all disciplinary work and the necessary preliminary investigations, and the employment of an accountant to carry out more speedily and with a greater degree of uniformity inspections under the accounts rules. Legislation is also contemplated to provide that every solicitor on applying for his annual practising certificate shall be required personally to make a declaration that to the best of his knowledge and belief he has complied with the account rules. A preliminary examination of the measures proposed suggests that they are well calculated to achieve the objects in view.

Appellate Courts.

THE proposal embodied in the Supreme Court of Judicature (Amendment) (No. 2) Bill for increasing the number of the ordinary Lords Justices from five to eight, is a fresh reminder of the very heavy work now falling upon the Court of Appeal. The reason, no doubt, can partly be ascribed to the ever-increasing volume of legislation, but in part also to the inherently combative nature of Englishmen who insist upon their rights, or what they deem to be such, being tested to the utmost limit, a privilege which the State appears to think that they are entitled to exercise if they so choose. If we contrast our present hierarchy of courts with that which obtained in the pre-Judicature Act days, we cannot but be surprised at what would now be regarded as an inadequate provision for reviewing the decisions of the courts of first instance. On the Chancery side there was an appeal to the Lord Chancellor and later to the Court of Appeal in Chancery set up in 1851, by the appointment of Lord Justice KNIGHT BRUCE, who is credited, or should we say debited, with the cynical observation, apropos an administration suit, that "the estate will be divided in the usual way among the parties' solicitors," and with him was that excellent, though less sparkling colleague, ROBERT MONSEY ROLFE, who had been one of the Barons of the Court of Exchequer, and later rose to be Lord Chancellor. This separate appellate tribunal was later merged in the Court of Appeal set up by the Judicature Acts, 1873 and 1875. On the common law side, till the setting up of the Court of Appeal as we know it, there was no Court of Appeal *eo nomine*, but for a very long time a decision of one of the common law courts—King's (or Queen's) Bench, Common Pleas, or Exchequer, could be reviewed by an appeal from the court in which judgment was given to the members of the other two courts sitting together. Thus it was possible for the question involved to be reconsidered by a very full bench composed of judges familiar with both the law and practice. There were many who regretted the passing of the old system, but, apparently, it was deemed advisable to set up an appellate court sitting continuously as such, and limited to such work.

Underground Water.

SEVERAL interesting suggestions are made by the Underground Water Sub-Committee which was appointed by the Central Advisory Water Committee in April, 1937, to consider existing conditions relating to the abstraction of water from underground sources and the reports of previous committees on the subject, and to report to the central committee on the action necessary to ensure that such supplies are conserved and preserved from pollution. It may be recalled that the Central Advisory Water Committee was appointed to advise the Government Departments on questions relating to the conservation and allocation of water resources; to advise the departments on any questions which might be referred by them to the committee with respect to any matter arising in connection with the execution or any proposed amendment of the enactments relating to water; and to consider the operation of these enactments and to make to the departments such representations with respect to matters of general concern arising in connection with the execution of those enactments, and with respect to further measures required as the committee thought desirable. The committee appointed three sub-committees, the first being that already referred to. A second committee has furnished a report concerning the planning of water resources and supplies, while the third is considering the modernisation of the existing law relating to the supply of water by local authorities and water companies. The reports of the first two of these sub-committees have recently been published with the first report of the Central Advisory Water Committee (H.M. Stationery Office, price 6d. net). It is impossible within the space at our disposal to indicate the contents of these reports in any detail, and for the present it will be necessary to confine our attention to the report of the sub-committee concerned with underground water with particular reference to a suggestion which would introduce an important modification of the common law as interpreted by the House of Lords in *Chasemore* v. *Richards*, 7 H.L.C. 349, where it was indicated that every man has the right to divert or appropriate all underground water flowing or percolating through an undefined channel which he can find on his own land.

Restriction of Proprietory Right.

THE sub-committee proposes that, so far as certain defined areas are concerned, it should be made unlawful for any person to commence (*a*) to construct any well, boring, adit, shaft or other work involving, or likely to involve, abstraction of underground water, or (*b*) to extend any existing well, boring, or adit for the purpose of abstracting additional quantities of underground water, or (*c*) to extend or utilise for any purposes other than certain purposes enumerated—domestic and farm supplies among them—wells, etc., covered by the excepted provisions, unless he has given notice of an intention to do so, and, if objection is made to the proposal and is not withdrawn, until he has obtained the licence of the Minister of Health. The suggested changes have no reference to water flowing underground in a known and defined channel. It is recommended the defined areas should be those in which the conservation of underground water is shown, after investigation, to be necessary in the public interest—the term refers not only to public water supplies but to all interests concerned with the supply, use or flow of water—and that the areas should be well defined surface areas in view of the impracticability of exercising control by reference to particular water-bearing strata. It is suggested that the task of defining areas should be committed to the Minister of Health, acting with the advice of the Central Advisory Water Committee, and that the former on his own initiative or on the application of any interested regional advisory water committee or body, corporate or otherwise, or individual, should be empowered to make a provisional order defining areas after a public inquiry and proper advertisement of the proposals in the *London Gazette* and local newspapers. With regard to compensation the committee observes that at present owners have no redress if the activities of their neighbours interfere with, or even completely exhaust, the supplies under their land. The suggested procedure, it is urged, will enure to the general good of the defined areas, and the committee is agreed that it would be impracticable to provide for compensation in respect of any restrictions imposed under the scheme of control.

Waste and Pollution.

THE same sub-committee has some important suggestions to offer on the subjects of waste and of the pollution of underground water, but in view of the space already devoted to the report, these must be dismissed with some brevity. The Ministry of Health's Advisory Committee in 1925 suggested as a means of coping with the first of these problems a general procedure enabling courts of summary jurisdiction to deal with boreholes found to be running to waste. This is substantially approved with the qualification that proceedings shall only be taken with the consent of the Minister of Health. It is urged that restrictions should only be enforced if it is shown that the conservation of underground water is necessary in the public interest—the overflow of underground water may in some areas be harmless—and courts of summary jurisdiction may not always have sufficient technical knowledge or experience of such problems to decide whether the conservation is necessary from the above point of view. With regard to pollution of underground water, agreement is expressed with the recommendation put forward by the Ministry of Health's Advisory Committee on Water that the provisions of ss. 61 and 62 of the Waterworks Clauses Act, 1847, should be made applicable to underground supplies and a re-drafted version of these sections to carry this recommendation into effect is set out in an appendix. Moreover, it is proposed that the penalty prescribed by s. 62, which at present is recoverable only in one of the superior courts, should be recoverable by proceedings in a court of summary jurisdiction, and suitable amendments are proposed to this end. A further suggestion deserving of mention is that the Minister of Health should be empowered to make regulations for preserving the purity of underground water in areas where the purity of the water is endangered.

Divorce for Insanity: The Doctor's Position.

WE have on a previous occasion referred to the problem confronting medical practitioners who may be requested to give an opinion concerning the likelihood of a mental patient recovering from his malady in view of contemplated divorce proceedings under s. 2 of the Matrimonial Causes Act, 1937. We have no intention at this juncture of re-examining the position or of repeating what was said on a former occasion, but in view of the importance of the matter, we desire to place on record the opinion recently expressed by Sir LAURENCE BROCK, chairman of the Board of Control, at the annual meeting of the Mental Hospitals Association at the Guildhall. The speaker indicated that the Board, with the concurrence of the Minister of Health, had decided that all statutory documents, reports and certificates relating to a patient should be furnished to a *bonâ fide* applicant desirous of taking divorce proceedings on the ground of insanity under the Matrimonial Causes Act. That decision, he said, followed from an expression of opinion made by the President of the Divorce Court in a recent case (see 82 SOL. J. 423, 442). It was a different problem, the speaker continued, when a doctor was asked for some expression of opinion as to a patient's likelihood of recovery. He did not think it necessary that anything in the nature of a medical certificate or even a written report should be supplied, but the doctor was, in his opinion, entitled to give some indication as to whether a patient was incurable. What a doctor might say in the box was privileged, but there was still uncertainty about a statement furnished to a petitioner.

Pedestrians and Road Safety.

A FEW weeks ago we referred to certain recommendations contained in the report of the Traffic Advisory Council concerning the regulation of cyclists. The further control of another non-motoring section of road user was advocated in the course of evidence recently tendered on behalf of the Association of Municipal Corporations to the House of Lords Select Committee on the Prevention of Road Accidents. It was urged that the first and most important reason for accidents on the road was human failure to appreciate the dangers of the road. One of the greatest problems was the education of the pedestrian and suitable legislation should be introduced to accomplish this. It was recognised that very careful thought would have to be given to the best means of introducing the necessary measures which would in any event, provoke much adverse criticism, but it was thought that stern action in regard to pedestrians would be necessary if a reduction of road accidents was to be achieved. The introduction of legislation in order to control pedestrians in the use of carriageways was accordingly advocated, and it was suggested that this could best be effected by making it an offence to " walk carelessly." One of the difficulties in the way of practical improvement by such measures was alluded to in these columns some weeks ago. Many of the accidents caused by pedestrians are due to forgetfulness and, although the law provides ample precedent for the attachment of legal responsibility to inadvertent acts, it is doubtful how far measures of the kind advocated would operate as effective deterrents. It is probable that a good deal more could be done to protect the pedestrian and those placed in perilous situations by his conduct by the interposition of physical obstacles, such as guard rails, between him and disaster, than by the erection of the intangible barrier of legal liability, but it can hardly be doubted that scope exists for regulative enactment and that suggestions to that end merit very careful consideration.

Health Insurance: Ministry's Decisions.

SEVERAL interesting decisions given by the Minister of Health as to the liability to insurance under the National Health Insurance Acts are contained in the recently published Supplement No. XIII to the volume of memoranda of such decisions (Memo. 151, September, 1931). One of the cases which may be cited as a sample was that of a golf professional whose earnings were under the statutory limit. The man had previously been a caddy at the club and had received permission to give lessons. The directors stated in a letter that they were prepared to offer him employment as a professional to the club at a monthly wage of £1 13s. 4d. He was required to be reasonably in attendance for such purposes as the collection of green fees, and was expected to be available to give lessons when required. In addition to the wage he received fees for tuition and profits from the sale and repair of golf clubs, etc. It was decided that while employed as a professional golfer the man had been employed under a contract of service by the club and had been employed within the meaning of the Insurance Act. Other decisions relate to a physical training and fencing instructor, a credit draper carrying on business under a trustee, a male nurse, a public-house manager and wife, a basket maker, clay modellers, and a lieutenant and quartermaster (Territorial Army). The decision that the employment of the last-mentioned was employment in the military service of the Crown, and was not employment within the meaning of the Insurance Act was upheld by BRANSON, J., in *Appeal of Cousens* (*Re Cousens, deceased*), 82 SOL. J. 97, who distinguished *Derbyshire County Council* v. *Middlesex County Council* ([1936] 1 K.B. 533; 79 SOL. J. 777), a case in which the court had to consider the phrase "serving in the military service of the Crown as a soldier" in proviso (*a*) to s. 93 (1) of the Poor Law Act, 1930. The Supplement is published by H.M. Stationery Office, price 2d. net.

Recent Decisions.

IN *Canning* v. *William Collins, Sons and Co., Ltd.* (*The Times*, 7th July), heard before LORD HEWART, C.J., and a special jury, the plaintiff's claim for damages against publishers in respect of alleged libels in a novel failed. The authoress had chosen the christian and surname borne by the plaintiff for an unpleasant character and there were other incidental points of resemblance. When the book was published neither writer nor publishers had heard of the plaintiff. See *Jones* v. *Hulton* [1910] A.C. 20.

In *Wardell* v. *Kent County Council* (*The Times*, 12th July), the Court of Appeal (SLESSER and MACKINNON, L.JJ., GREER, L.J., dissenting) reversed a decision of a county court judge and held that a nurse who was injured about the face by the explosion of a tin of antiphlogistine which she had been instructed by the sister of a ward in the defendant's hospital to apply to a patient was a " workman " within the meaning of s. 3 (1) of the Workmen's Compensation Act, 1925. The appellant while employed at the hospital was subject to its rules and regulations with regard to times of sleeping, meals and recreation and was under the control of the matron. When in a ward she was subject to the control of the sister. *Hillyer* v. *St. Bartholomew's Hospital* [1909] 2 K.B. 820, distinguished.

In *Russian and English Bank* v. *Baring Brothers and Co., Ltd.* (*The Times*, 12th July), the Court of Appeal (Sir WILFRID GREENE, M.R., and SCOTT and CLAUSON, L.JJ.) upheld a decision of BENNETT, J., to the effect that the plaintiffs were not entitled to a declaration that they were the assignees of two sums, one of £100,000 and the other of £80,000, forming part of an account known as the Compte Spécial which the former Russian Government had with the defendants.

In *The Aizkarai Mendi* (*The Times*, 12th July), LANGTON, J., considered the proper amounts to be awarded on cross-motions in objection to the Registrar's report on a reference to assess damages arising out of a collision between the plaintiffs' steamship " Boree " which sank, nine of the crew being drowned, and the " Aizkarai Mendi." Damages had been awarded to the dependents of the deceased men under the Fatal Accidents Act, and in addition, £150 each to their representatives under the Law Reform (Miscellaneous Provisions) Act, 1934, in respect of loss of expectation of life, and pain and suffering. In assessing what was due for loss of expectation of life his lordship reduced the figure of £1,000 awarded in *Rose* v. *Ford* [1937] A.C. 826, in view of the fact that all the men were engaged in a dangerous trade and that all the likely participants had been liberally compensated under the Fatal Accidents Act, and he graded the men in classes with reference to their respective ages.

In *Finska Angfartygs A/B* v. *Baring Brothers and Co., Ltd.* (*The Times*, 12th July), the Court of Appeal (Sir WILFRID GREENE, M.R., and SCOTT and CLAUSON, L.JJ.) upheld a decision of LUXMOORE, J., to the effect that the plaintiffs were not entitled to be paid out of funds in the hands of the defendants standing to the credit of an account called the Compte Spécial sums amounting to £456,000, which the plaintiffs alleged were due to them as owners of thirteen ships which were registered at ports in Finland and were taken over by the former Russian Government and handed over to the British Government to be used for purposes in connection with the Great War. The decision of LUXMOORE, J., was reported in our issue of 18th December (81 SOL. J. 1022).

In *Walton* v. *Jacob* (p. 586 of this issue), heard before LORD HEWART, C.J., and a special jury, the plaintiff, the administrator of the estate of his son, aged twenty-one, who was killed in a motor accident, was awarded £2,000 damages, of which £70 was the agreed sum for special damages, and the remainder was for loss of expectation of life of the son, whose claim under this head survived for the benefit of his estate under the Law Reform (Miscellaneous Provisions) Act, 1934.

Liability for Dangerous Circumstances.

As is hardly surprising in a world teeming with danger to life, limb and property, much has been written and spoken on the interpretation of the famous rule in *Rylands* v. *Fletcher*, L.R. 1 Ex. 265; 3 H.L. 330.

Quite recently the Court of Appeal discussed its application to a case in which a person was injured by a falling "chair-o-plane" on a fairground (*Hale* v. *Jennings Bros.*, 82 SOL. J. 193). The county court judge decided in favour of the defendants that the chair-o-plane was not dangerous, and negatived nuisance and negligence. The Court of Appeal unanimously held it to be dangerous within the *Rylands* v. *Fletcher* rule.

The chair-o-plane was described by Clauson, L.J., as "a machine, the purpose of which was to whirl heavy objects round in reliance upon the combined stress of the various parts of the structure." It appeared that the apparatus revolved five or six times a minute, and the accident was caused by one of the occupants of the chairs in the machine pulling his neighbour's chair about in a spirit of fun, and producing an abnormal strain upon the chairs causing a hook to become detached. The chair was flung on to an adjoining piece of land occupied by the defendant as tenant, and the defendant was injured.

It is important to observe the grounds on which the learned lords justices found that the machine was dangerous. Lord Justice Slesser held that it was dangerous because of the possible state of the machine when in motion, owing either to a defect which was undiscoverable on adequate inspection or to the fact that an invitation to sit on the chairs was extended to people, some of whom might be foolish. Lord Justice Scott held that the apparatus was dangerous because it was intended to be used by persons, many of whom are ignorant or unaware of the dangers incidental to playing with the chairs. Clauson, L.J., said that the persons invited to use the machine were not under the physical control of the defendants, and these persons were placed in a position in which they were able to interfere with the safe working of the machine so as to cause portions of the machine to become detached under pressure of centrifugal force and cause damage.

The precise words of Blackburn, J., in stating the rule in *Rylands* v. *Fletcher*, were as follows: "We think that the true rule of law is, that the person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escapes must keep it at his peril, and if he does not do so, is *primâ facie* answerable for all the damage which is the natural consequence of its escape." He then gave the examples of escaping cattle eating down a neighbour's corn, escaping water flooding a neighbour's house, filth from a privy invading a neighbour's cellar, and fumes from an alkali works rendering a neighbour's habitation unhealthy, and continued: "It seems but reasonable and just that the neighbour, who has brought something on his own property which was not naturally there, harmless to others so long as it is confined to his own property, but which he knows to be mischievous if it gets on his neighbour's property, should be obliged to make good the damage which ensues if he does not succeed in confining it to his own property." In the House of Lords, Lord Cairns distinguished the "natural" from the "non-natural" use of the land, and said that if there had been an accumulation of water in the natural use of the land and it had escaped, the defendants could not have been liable. The non-natural use of the land he described as "introducing into the close that which, in its natural condition, was not in or upon it." Non-natural here means extraordinary and unusual. For instance, a landowner is not liable for the damage caused by the breaking of a branch of an apparently perfectly sound tree (*Noble* v. *Harrison* [1926] 2 K.B. 333).

"Such a tree," said Wright, J., in that case, "cannot be compared to a tiger, a spreading fire or a reservoir in which a huge weight of water is artificially accumulated to be kept in by dams, or noxious fumes or sewage."

The other important phrases in the judgment of Blackburn, J., are: "likely to do mischief if it escapes," and "harmless so long as it is confined to his own property." The headnote to the report of *Rylands* v. *Fletcher* in the House of Lords speaks of "bringing on to the land anything which would not naturally come upon it, and which is in itself dangerous and may become mischievous if not kept under proper control." The suggestion that certain things are in themselves dangerous and that others are only dangerous owing to some extraneous circumstances such as defect or position has been the cause of much confusion of thought. Things are more dangerous or less dangerous because, in the ordinary uses to which they are applied, they are more likely or less likely to cause damage. Defect and position are matters which may add quantitatively to the element of danger. The examples of the loaded gun (*per* Parke, B., in *Longmeid* v. *Holliday* (1851), 6 Ex. 761), poisons and explosives (*per* Atkin, L.J., in *Jefferson* v. *Derbyshire Farmers Limited* [1921] 2 K.B. 281), only serve to stress that the main difference between different dangerous things is a quantitative one of degree and not one of quality. The so-called "inherent" or "natural" power and tendency of things like explosives to cause damage is only a high degree of probability that the damage will be caused. The power to cause damage is not "of the essence of the thing" as is suggested in "Charlesworth on Dangerous Things" (1922), at p. 7. It may be of the essence of its use, but even then only because of the high degree of probability that it can cause damage.

The recent decision of the Court of Appeal shows that there are many different causes which may give rise to the probability of damage. A hidden defect in a thing which in its ordinary use is not likely to cause damage, frequently makes a thing extremely dangerous. But in the recent case there was not merely a defect, but a defect which was caused by persons for whose enjoyment the machine was intended and whose interference with the machine was probable. Although the court did not in so many words hold that the proprietors of the machine should have provided and guarded against such interference, it might be said that in this class of example the application of the rule in *Rylands* v. *Fletcher* is drawing close to the law of negligence. "If the possibility of the danger emerging is reasonably apparent, then to take no precautions is negligence"—*per* Lord Dunedin, in *Fardon* v. *Harcourt Rivington*, 48 T.L.R. 215. On the other hand, even if no precautions had been possible, the defendants would have been liable for the damage caused by the escape of the chair, which was dangerous owing to the combination of weight, centrifugal force and the invitation to ignorant users.

Costs.

NOTES ON PRINTING—I.

WE find that there is a certain amount of uncertainty about the charges which may be included in a solicitor's bill of costs in connection with printing, and a few notes on the point may prove of interest. The difficulties arise, in a large measure, from the fact that one has to attempt to adapt rules that have been framed some years ago to meet situations which arise under present-day conditions.

The question of printing falls into two categories. Some documents used in the course of an action are required to be printed by the Rules of the Supreme Court, whilst other documents are printed as a matter of convenience. The rules with regard to the charges to be made for printing

differ according to the category into which the documents fall.

We will deal in the first place with those documents that are printed under the rules of the court. They include, in particular, pleadings and depositions of witnesses, and, in connection with the former, r. 9 of Ord. 19 states that every pleading which shall contain less than ten folios may be either printed or written, and every other pleading, not being a petition or summons, shall be printed, unless otherwise ordered by the court in Poor Persons cases.

The word "written" is construed as meaning written by hand or by a typewriter—see s. 20, Interpretation Act, 1889—although, having regard to the provisions of this latter section to the effect that the expression "writing" is to include, *inter alia*, printing, one might suppose that the employment of the latter word in r. 9 was redundant. This point, however, is outside the scope of our present article.

In the first place it is as well to examine the meaning of the word "pleading." A definition of this word is given in the Judicature Act, 1925, s. 225, to the effect that it includes all "statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant."

Notwithstanding this, however, it seems that a mere formal demand of any plaintiff to the defendant, or a letter from the defendant setting out his defence to the claim, is not a pleading within the meaning of the rule, if it is not in the form prescribed by r. 11 of Ord. 19. Nor, for that matter, is a writ of summons a pleading, except where it is specially endorsed. In the latter case it is deemed to be a pleading, see *Anlaby* v. *Praetorius*, 20 Q.B.D. 764, and since it is delivered when it is served it would appear that a writ, specially endorsed, would have to be printed before it could be served, if the special endorsement happened to exceed 720 words—an unlikely, although not an impossible or an unknown, circumstance.

This brings us to a further point that often arises in dealing with costs, namely, to define with accuracy what is meant by a folio. If we turn to Ord. 65, r. 27 (14), we shall find that it states that "a folio is to comprise seventy-two words, every figure comprised in a column, or authorised to be used, being counted as one word." The endorsement on a document is not to be counted in calculating the length of that document. Nor is any allowance made for drawing lines where a document such as an account is being copied. Moreover, since there is no specific mention or authority for their inclusion in the calculations, as there is for the counting of figures as words, it would seem that no allowance should be made for punctuation or exclamation marks and the like.

Questions of principle arise on what constitutes printing, or what may be deemed to be printing for the purpose of preparing a bill of costs, and these are important in determining the proper treatment in the solicitor's bill of costs of the expenses involved in the various mechanical means of producing a number of copies of a document. Rule 7 of Ord. 66 affords us some guidance for it states in sub-r. (1) that where by any provision of the rules any document is required to be printed, that document may be either printed or reproduced by type-lithography or stencil duplicating. That is the position where the document is printed under the Rules of the Supreme Court, so that it would apply to pleadings exceeding ten folios in length. Where, however, there is no obligation to print, then other means of reproduction may be adopted, for example, photography, or by the production of carbon copies in a typewriter. The point is important as we shall see later, since it governs the basis upon which a solicitor may charge for the copies made.

Normally, where a document is required by the rules to be printed, twenty prints of the document are struck off, for by sub-r. (*c*) of r. 7, Ord. 66, the opposite party may demand from the party printing the document any number of printed copies, not exceeding ten, upon payment therefor at the rate of three-halfpence per folio. By inference, it may be assumed that the party printing is entitled to a similar number of prints, so that in all twenty prints are deemed a reasonable number to strike off.

Pressure of space compels us to leave the matter at this stage, but we will revert to it in our next article on this subject.

Company Law and Practice.

The Appointment of a Receiver after the commencement of a Winding-up.

I PROPOSE to consider this week one or two matters which affect the position of mortgagees where the mortgagor is a company which has gone into liquidation. This will involve consideration of two sections—one of the Companies Act, 1929, and the other of the Law of Property Act, 1925 (with which most of my readers are no doubt already familiar)—and of the effect of these two sections in a rather limited field. The remedy of the mortgagee by way of appointment of a receiver falls naturally into two divisions according to the way in which the power is exercised. In a proper case a receiver may be appointed under hand without recourse to the court or to any form of legal proceeding, or alternatively, the mortgagee can start proceedings and move in those proceedings for the appointment of a receiver by the court. To begin with the latter method, the mortgagee is at once confronted by a difficulty after the mortgagor has gone into liquidation by s. 177 of the Companies Act, 1929. This section provides that, when a winding-up order has been made or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court and subject to such terms as the court may impose. A winding-up order in this context includes by virtue of s. 260 (2) of the Companies Act, 1929, a winding up subject to the supervision of the court. Section 177 imposes an absolute bar on all proceedings, even if they have already been commenced, and the mortgagee who is minded to take or continue proceedings must apply to the court for leave to do so. In normal circumstances the court will grant leave as of course. The case of *In re David Lloyd and Company*, 6 Ch. D. 339, which is the main authority for this proposition, was a decision of the Court of Appeal under the section of the Companies Act, 1862, which corresponded to s. 177 of the present Act. In that case the sequence of events, so far as it is now material, was that the company acquired certain interests in collieries subject to an equitable mortgage. The company did not meet with success and it was resolved that it be wound up voluntarily. The mortgagee at once commenced proceedings in which he claimed an account and, in default of payment of the amount found due, foreclosure. Some eight months later, on the petition of a creditor for a compulsory winding-up order, an order was made that the voluntary winding up should be continued subject to the supervision of the court. The mortgagee then gave notice of motion both in his action and in the winding up for an order that he might be at liberty to proceed with his action notwithstanding the supervision order. Malins, V.-C., refused to give leave, but on appeal his decision was reversed. The Master of the Rolls treated the question as being on what terms the mortgagee should be given leave to proceed with his action. "As a rule," he said, "a mortgagee has a right to realize his security and, of course, as incidental to that, a right to bring an action for foreclosure. Those who say that he should be restrained from bringing or proceeding with such an action must either show some special ground for restraining him, or must say: "We can offer the mortgagee all he is entitled to, foreclosure or sale, as the case may be, at once,

without any proceeding in the action." That, of course, would be a reason for refusing leave to proceed with an action if commenced, or for not giving leave to commence a threatened action. But short of that it appears to me that the court ought not . . . to interfere with the rights of a mortgagee." To this exposition of the law I must add a short passage from the judgment of James, L.J., in the same case, which shows the purposes for which the general restraint on proceedings, now contained in s. 177 of the Companies Act, 1929, was imposed by the legislature. "These sections," says the learned Lord Justice, "and the corresponding legislation with regard to bankrupts, enabling the court to interfere with actions, were intended, not for the purpose of harassing or impeding or injuring third parties, but for the purpose of preserving the limited assets of the company or bankrupt in the best way for distribution among all the persons who have claims upon them. There being only a small fund or a limited fund to be divided among a great number of persons, it would be monstrous that one or more of them should be harassing the company with actions and incurring costs which would increase the claims against the company and diminish the assets which ought to be divided among all the creditors. But that has really nothing to do with the case of a man who, for the present purpose, is to be considered as entirely outside the company, who is merely seeking to enforce a claim, not against the company, but to his own property. The position of a mortgagee in such circumstances is to my mind exactly similar to that of a man who said: 'You, the company, have got property which you have taken from me; you are in possession of my property by way of trespass and I want to get it back again . . . I have nothing to do with the distribution of your property among your creditors, this is my property'." The pith of the judgment, so far as a mortgagee is concerned, lies in the last two sentences and the distinction which is there drawn between the rights of a creditor against the company's property and the rights of a creditor to recover his own property.

The mortgagee has now got thus far—he can bring or continue his action against the company in liquidation. But we are considering, not his general right to take proceedings, but one particular exercise of his rights, namely, the right to have a receiver appointed in those proceedings. Here a completely fresh set of considerations arises. The object of having a receiver appointed by the court is to preserve the mortgaged property and secure that it should be administered by some responsible person answerable to the court. But when a compulsory winding-up order has been made, the assets of the company are under the control of just such a person—the liquidator. Is it then desirable that a second person should be appointed by the mortgagee? The answer to this question is in the negative, though it must not be imagined that the mortgagee has lost the right which he always had to have a receiver appointed. In the interests of convenience and to avoid unnecessary expense, the court will, in the absence of special circumstances, appoint the liquidator to be receiver. Under s. 307 of the Companies Act, 1929, the Official Receiver may be appointed receiver. It was said in one case that it could not be endured that there should be two sets of receivers—i.e., a receiver appointed on the application of the mortgagee, and the liquidator—though, if the justice of the case required it and the rights of the mortgagees were likely to be prejudiced, two officials would have to be tolerated, regardless of expense. The practice in the ordinary case, where a mortgagee takes proceedings after the appointment of a liquidator, is illustrated by the case of *Perry* v. *Oriental Hotels Company*, 5 Ch. 420. There an equitable mortgagee filed a bill to enforce his security after an order had been made for continuing under supervision the voluntary winding up of the company. The mortgagee obtained an order for a receiver. The company proposed the liquidator as receiver, but the judge in chambers appointed another person, who had been put forward by the mortgagee. On appeal, it was held that the liquidator (against whom no personal objection was alleged) ought to have been appointed receiver, since the appointment of another person would produce great and unnecessary expense. In *Willmott* v. *London Celluloid Company* [1885] W.N. 29, the liquidator not objecting to act as receiver, he was appointed, and this practice was again affirmed in *Giles* v. *Nuthall* [1885] W.N. 51, and still prevails.

In the case where a receiver has been appointed by the court before the liquidator is appointed, a motion may be made on behalf of the company for the removal of the receiver and the appointment of the liquidator to be receiver in his place. The liquidator will, of course, have to keep separate accounts: see *Campbell* v. *Compagnie Générale de Bellegarde*, 2 Ch. D. 181; *Tottenham* v. *Swansea Zinc Ore Company* [1884] W.N. 54; *British Linen Company* v. *South American and Mexican Company* [1894] 1 Ch. 108. The same principles apply as when the liquidator has already been appointed. The court will not curtail the right of the mortgagee, and if the mortgagee wishes to have a receiver he may continue to have one, notwithstanding the appointment of the liquidator. But when the court comes to consider who shall be the receiver, then it will normally displace the existing receiver in order to combine all the business of preserving, getting in and distributing the assets in the hands of the same person. The liquidator is to be preferred to the receiver as the proper person for this, although there are grounds for saying that the receiver is to be preferred in a case where the assets are insufficient to a substantial amount to cover the amount of the mortgage debt: *Strong* v. *Carlyle Press* [1893] 1 Ch. 268. In such a case the mortgagee is the only person interested, and he has *primâ facie* the right to administer and realise the property which is the subject-matter of the mortgage.

I must now pass to a completely different aspect of this subject—the appointment of a receiver out of court. The mortgage deed usually gives to the mortgagee power to appoint a receiver on the happening of certain events, and this power is always exercisable by the mortgagee, subject, however, to the restriction placed on it by s. 110 (1) of the Law of Property Act, 1925. This sub-section provides as follows:—

> "Where the statutory or express power for a mortgagee either to sell or to appoint a receiver is made exercisable by reason of the mortgagor committing an act of bankruptcy or being adjudged a bankrupt, such power shall not be exercised only on account of the act of bankruptcy or adjudication, without the leave of the court."

This sub-section applies only where the mortgage deed is executed after the 31st December, 1925. Section 205 (1) (i) of the same Act provides that in the Act "bankruptcy" includes in relation to a corporation the winding up thereof. The result, therefore, is that, if in a mortgage deed express power is given to the mortgagee to appoint a receiver upon the mortgagor being adjudicated bankrupt or being wound up, then on the happening of that event the mortgagee must first apply to the court for leave to exercise his power. The section does not, however, extend to other events, so that if the power becomes exercisable from some cause other than the adjudication or winding up, it may be exercised without leave notwithstanding such adjudication or winding up.

Mr. Justice Lewis, sitting as Judge of the Commercial Court, called attention, says *The Times*, to the rule of the court, set out on page 2677 of the Annual Practice for 1938, that as soon as a date had been fixed for the trial of a commercial case entry of the case must forthwith be made with the associate and immediately thereafter with the judge's clerk, or the appointment would be cancelled. He found that cases in which dates had been fixed had never been entered, and he proposed giving instructions that in all cases in which entry had not been made the dates must be cancelled.

A Conveyancer's Diary.

Memorandum in Writing to Satisfy s. 40 of the L.P.A., 1925. A Novel Point.

THERE have been so many cases turning upon what is a sufficient note or memorandum in writing to satisfy s. 4 of the Statute of Frauds, now s. 40 of the L.P.A., 1925, that it might have been thought that almost every conceivable point that could arise had been covered by authority. However, in *Smith* v. *MacGowan* [1938] W.N. 265, a novel situation caused a new point to be before the court.

It appeared that the plaintiff submitted for sale by public auction (amongst others) certain freehold properties, namely, lot 1, a dwelling-house, lot 2, another dwelling-house, and lot 3, certain cottages and shop premises. The defendant shortly before the sale verbally authorised his solicitors (who were also solicitors for the plaintiff) to bid for and purchase on his behalf all the aforesaid properties at the following prices: lot 1 at a price not exceeding £250; lot 2 not exceeding £125; and lot 3 not exceeding £400. At the sale the solicitors, as agents for the defendant, made a bid for each of the three lots, which were knocked down to them separately at separate prices. There was no memorandum made of the sale of each lot at the time, but on the following day there was an agreement in writing made between the plaintiff of the one part and the defendant by his said agents of the other part, and signed by such agents, whereby the defendant agreed to purchase from the plaintiff the three lots at the price of £775, subject to the conditions of sale. The solicitors who signed that agreement on behalf of the defendant admitted by counsel at the hearing that assuming they had authority to sign a contract in respect of each separate lot they were not authorised to enter into an agreement which combined the three separate agreements into an indivisible contract for the purchase of the whole of the properties.

The action was for specific performance of the written contract which combined the three contracts into one.

Luxmoore, J., held that there was no memorandum of any of the contracts entered into at the sale when the lots were knocked down to the defendant. His lordship said that specific performance was not asked of three separate agreements but of one indivisible agreement, which was not in fact the agreement entered into at the auction at all.

A curious case, but this decision seems to be manifestly right, although hard on the plaintiff.

If the solicitors who bid for the defendant had signed a separate memorandum in respect of each lot the defendant would, of course, have been bound, as the authority of an agent to purchase land need not be in writing. That was decided long ago (see *Heard* v. *Pilley* (1869), L.R. 4 Ch. 548).

Validity of a Power to Donee to Appoint to Anyone other than Himself.

I have recently had to consider the same point that was raised in the interesting case of *Re Park*, *Public Trustee* v. *Armstrong* [1932] 1 Ch. 580. The facts there were that a testator gave his residuary estate to his trustees in trust to pay the income thereof to any person "other than herself" or persons or charitable institution or institutions and in such shares and proportions as his sister, J.A., should from time to time during her lifetime direct in writing, and from and after her decease in trust for a named charity.

The point raised was that the power was invalid on the ground that it was an attempt *pro tanto* to leave it to J.A. to make a will for the testator which it was contended could not be done. In support of that contention a dictum of Lord Haldane in *A.-G.* v. *National Provincial Bank* [1924] A.C. 262, was cited. His lordship said: "A man cannot disinherit his heirs by giving away his property unless he really gives it away; he cannot leave it to someone else to make a will for him, nor can he leave it to his trustees to give it for purposes which are completely in their discretion unless those purposes are so indicated as in some sense to confer on a class of beneficiary an interest."

Clauson, J., in his judgment dealing with that contention said: "This argument, however, fails to pay due regard to the well-settled principle, which Lord Haldane obviously did not intend to question, that a testator may by will confer on any person a power to appoint to whomsoever such person pleases, i.e., a general power, and also may confer on any person a power to appoint with a restriction—namely, that the appointees are to be among certain objects designated in the will, a particular power."

It was also contended that the creation of a general power was lawful because it is a mere equivalent to conferring on the donee the property in the subject-matter of the power. In that case, it was argued, the testator had not conferred a general power, because it is of the essence of such a power that the donee may exercise it in his own favour, and the testator had not conferred a particular power because no objects were designated in the will. Clauson, J., pointed out with regard to that, that there was a third class of power where the donee could appoint to anyone with certain exceptions, and his lordship referred to *Platt* v. *Routh* (1840), 6 M. & W. 756, affirmed in the House of Lords *sub. nom.*: *Drake* v. *A.-G.*, 10 Cl. & F. 357, where it was held that a power to appoint to anyone but certain named persons was valid; and to *Re Byron* [1891] 3 Ch. 474, where the validity of a similar power was assumed. His lordship also quoted with approval a passage from "Jarman on Wills," 7th ed., vol. II, p. 763, as follows: "There is a class of powers which are not special in the sense that there is a distinct class of objects of the power and yet are not general; to this class belong powers where the donee can appoint to any person or persons other than himself his executors or administrators or other than certain classes of persons."

In deciding that the power was good, Clauson, J., said: "I know of no authority to justify me in holding that a power to A.B. to appoint to any object except himself is invalid while a power to A.B. to appoint to any object except X.Y. is valid, and I have the opinion of Mr. Jarman and his learned editors to support me in refusing so to hold."

It may be pointed out, however, that there was no direct authority for the statement in "Jarman" that such a power is good and the question was never decided before *Re Park*.

Landlord and Tenant Notebook.

Fire Insurance.

IN the recent Revenue case of *House and Property Investment Co.* v. *Kneen* [1938] 2 K.B. 274, it was held that when a lease provided for a specified sum as rent, "together with the yearly sum by way of further rent equal to the amount of an insurance premium," then the gross assessment under Sched. A of the Income Tax Acts was correctly made by reference to the total of the two sums, which was evidence of the rack rent within r. 1 (2) of the Income Tax Act, 1918. The point does not affect the relationship of landlord and tenant directly, but what is of interest to this "Notebook" is the part, albeit a minor part, played in the argument by the question of liability to insure and the consequences of destruction of premises by fire.

It was contended for the appellants that such liability was a mere matter of arrangement and that, in the absence of provision in the lease to the contrary, the tenant must pay the rent, whether the house was standing or not, and *Matthey* v. *Curling* [1922] 2 A.C. 180, was cited in support. For the respondent the Solicitor-General answered this by arguing that where a landlord was required by the lease to provide a house, then, at common law, certainly the obligation to insure

falls upon him and not upon the tenant; and that, if the house were burnt down, performance became impossible and no rent was payable; and that Lord Atkinson's remarks to the contrary, in *Matthey* v. *Curling*, were clearly *obiter*.

It was not necessary to decide this point for the purposes of deciding the main point at issue, and Lawrence, J., made no reference to the matter in his judgment; but if the point had been a vital one, I rather doubt whether the dictum in *Matthey* v. *Curling* would not have been treated with more respect than counsel for the respondent accorded to it.

As long ago as the year 1547, according to "Dyer" (p. 56), a tenant of land and stock claimed apportionment of rent when the latter died, no one being to blame for the disaster. It was held that his claim was invalid: but the report does record that certain of the justices and serjeants entertained views to the contrary, considering that it would be "bone equity et reason de apportioner le rent"; but the opinion which prevailed was that (I use the translation made or adopted in *Paradine* v. *Jane*, *infra*), "though the land be surrounded or gained by the sea, or made barren by wild fire," the lessee was liable for the whole rent.

The leading case is undoubtedly *Paradine* v. *Jane* (1647), Aleyn 26, in which a landlord demurred to a plea that a certain German Prince had invaded this realm with alien forces and had expelled the tenant from the demised premises so that he could not take the profits. Besides invoking the report in "Dyer," the judges laid down the general principle, not limited to landlord and tenant affairs, that where the law creates a duty the defence of act of God may be a valid one (e.g., in a case of waste), but when a party takes upon himself a duty he must provide any qualifications he considers advisable at the time, or take the consequences. An additional point made in the judgments was that, as a tenant takes casual profits, he must bear casual losses.

The last-mentioned remark may have been made to show that the judiciary of those times thought of "bone equity et reason," but in the middle of the next century—namely, when *Brown* v. *Quilter*, *infra*, and *Camden* v. *Morton* were decided—it looked for a time as if the Court of Chancery were out to modify the main rule; for, in *Monk* v. *Cooper* (1727), 2 Stra. 762, in upholding a similar demurrer, in spite of the fact that the tenant alleged a duty on the landlord to rebuild, the court had observed that, even if that were so, the claim could not be set off against the landlord's claim for rent. Partly on the strength of this Northington, C., granted the tenant, in *Brown* v. *Quilter* (1746), an injunction to restrain the landlord from proceeding for rent, the premises (a house and wharf) having been destroyed by fire; and the same happened in *Camden* v. *Morton* (1764), 2 Ed. 219.

But two observations can be made about those decisions, apart from the fact that they are at variance with a number of others. The learned Chancellor, when dealing with *Brown* v. *Quilter*, appears to have been inspired by a desire to shorten litigation, and to have held the view that in both *Paradine* v. *Jane* and *Monk* v. *Cooper* it was held that the tenants had valid cross-actions. I can find no trace of any such suggestion in the report of the former, and that of the latter hardly goes so far. The other criticism is that statute law, in the shape of the Fires Prevention (Metropolis) Act, 1774, has since provided (by s. 83) the tenant with a partial remedy when the premises are insured by the landlord: he cannot withhold rent but he can compel the insurers to lay out the sum assured in reinstating the premises.

And when the judgment of Lord Atkinson in *Matthey* v. *Curling* is perused, it will be seen that the alleged *obiter dictum* takes up nearly a third of it and examines a large number of authorities.

When premises are let by a landlord whose object is to receive a steady income, the most satisfactory arrangement is, of course, that the burden of repairs and rates and other outgoings shall be borne by the tenant, the rent being fixed at a lower figure than would otherwise be the case; and if the tenant's covenant to repair excepts damage caused by accidental fire, it is the more advisable that the landlord should insure his interest, the tenant perhaps insuring against liability to pay rent during the period of reinstatement unless he can persuade the landlord to consent to a proviso suspending payment.

A provision for adding premiums paid by the landlord to rent, while its primary object may be to maintain the yield at the desired figure, has the one advantage, from the tenant's point of view, that he is conscious of his statutory rights referred to above. When the duty to insure is imposed upon the tenant the landlord either has the trouble of inspecting policies from time to time if the covenant provides for their production—and if it does not he has no such right—or the worry of not knowing whether the obligation has been performed or not; and while the tenant can be told that the covenant is broken if days of grace elapse without his having renewed, even if no fire occurs (*Doe d. Pitt* v. *Shewin* (1811), 3 Camp. 134), what damages he may become liable for in such a case is a more difficult question to answer. *Hey* v. *Wyche* (1842), 2 G. & D. 569, showed that more than nominal damages could be awarded, but not how much more.

A further question which may arise if it be agreed that the landlord should insure, but at the tenant's expense, is whether the tenant's contribution should be fixed or should fluctuate according to the premiums. The amount of the latter may, of course, vary from time to time, not only to changes in the market, but according to changes in the nature or user of neighbouring property. If the object of a steady income from the property is to be pursued unswervingly, the resultant provision will be like that in *House and Property Investment Co.* v. *Kneen*, *supra*, "together with the yearly sum by way of further rent equal to the amount of an insurance premium paid by the lessor." Another and somewhat elaborate instrument amplifies the reddendum by "And also paying by way of further or additional rent from time to time a sum or sums of money equal to the amount which the lessors may expend in effecting or maintaining the insurance of the said premises against loss or damage by fire . . . such last-mentioned rent to be paid without any deduction on the quarterly day for payment of the rent next ensuing after the expenditure thereof." The legislature may be said to have approved the principle of such arrangements when passing L.T.A., 1927, s. 16 (*b*), entitling landlords to recover increases in fire premiums due to improvements executed by tenants under the Act: "And the sums so payable by the tenant shall be deemed to be in the nature of rent and shall be recoverable as such from the tenant." On the whole, however, there is perhaps more to be said against the device than for it, at all events when it makes the amount of the premiums additional rent or recoverable as rent; for when the logical conclusion is reached, it means that a tenant may conceivably suffer a distress to recover a sum of money the amount of which was not previously known to him.

Our County Court Letter.

THIEF-PROOF AUTOMATIC MACHINES.

In *Wood* v. *Speed*, recently heard at Alfreton County Court, the claim was for £49 as the amount due under a hire-purchase agreement for the sale of a cigarette machine. The plaintiff traded as the Automatic Trading Company, and his case was that, on the 7th July, 1937, the defendant had signed an agreement to pay £1 down and the balance in nineteen monthly payments of £2 10s. each. In the event of more than four weeks' default being made by the hirer, all the remaining payments were to become due. On the machine being delivered, however, the defendant refused to have it installed, as it was out-of-date and the contents could be

taken out without the insertion of coins. The defendant's case was that the machine was represented by the plaintiff's salesman as thief-proof, whereas it could be manipulated by means of wires. A demonstration of the removal of the contents, without the insertion of a coin, was given in court as evidence for the defence. His Honour Judge Longson accepted the defendant's version of the conversation preceding the signature of the agreement. The latter was repudiated the next day, and it was in the defendant's favour that he did not wait until he was sued before raising his objection to the machine. The representations of the plaintiff's salesman were not true concerning the machine supplied. The claim therefore failed, and judgment was given for the defendant, with High Court costs to the date of remission. The £1 paid, for which there was a counter-claim, was ordered to be repaid to the defendant.

THE CONTRACTS OF DOMESTIC SERVANTS.

In *Pentley and Wife* v. *Morris*, recently heard at Newbury County Court, the plaintiffs claimed £21 6s. 6d., being £10 as one month's wages and £10 for wages in lieu of notice, plus travelling expenses. The plaintiffs had been engaged as chauffeur-handyman and cook-housekeeper at £120 per annum jointly, with food and accommodation. Payment was agreed to be made monthly, and the plaintiffs began their duties on the 7th March. The male plaintiff was required to wait at table, although he had no experience as a butler, and this had not been specified as one of his duties. No objection was taken to his not wearing a collar and tie until the 13th March (a Sunday), when the defendant brought a friend home. The defendant then became annoyed at the male plaintiff's dress, and gave him a week's notice. Although the male plaintiff had had twenty-two years' driving experience, he had not been used to a sports car and was given no chance to learn to drive the defendant's car. The defendant's case was that he engaged the plaintiffs on a weekly basis at 50s. a week. In consequence of the male plaintiff's behaviour on the Sunday, and by reason of his incompetence as a chauffeur, the plaintiffs were properly dismissed with a week's money and a week's notice. Corroborative evidence was given by a guest of the defendant and by another chauffeur. His Honour Judge Kirkhouse Jenkins held that there had been a monthly hiring with a special arrangement for payment by the week. The term "handyman" did not imply a duty to act as waiter, and, if the defendant attached importance to that qualification, it should have been made an express term of the contract. The male plaintiff should have been reproved for not wearing a collar and tie on the first occasion, and there was no evidence of any neglect of duty by the female plaintiff. Judgment was given for the plaintiffs for £10 9s. 6d. (one month's wages and 9s. 6d. for fares) with costs on scale A.

Books Received.

The Law relating to Rent Restrictions. By I. H. Jacob, LL.B. (Hons.) Lond., of Gray's Inn, Barrister-at-Law. Second Edition, 1938. Demy 8vo. pp. xvi and (with Index) 299. London: The Estates Gazette, Ltd. 10s. post free.

Survey of Imports, Raw Materials, and Synthetic Products, and their relationships to the old and newer industries, with special reference to the position in the Humber area. By Arnold R. Tankard, F.I.C., City Analyst, Hull. 1938. Hull: City of Hull Development Committee. Price 2s. 6d.

Correction.—The author of "Housing Administration" (Butterworth & Co.; Shaw & Sons, Ltd. 25s. net), which appeared under "Books Received" in last week's issue, is Mr. Stewart Swift and not Mr. Stewart Smith.

To-day and Yesterday.

Legal Calendar.

11 July.—On the 11th July, 1799, George Fergusson became an ordinary lord of session in Scotland, with the title of Lord Hermand.

12 July.—"Murder in Hampton Court Palace" was the subject of the trial of John Rickey, a trooper of the 12th Lancers, on the 12th July, 1838, for shooting his sergeant. The unfortunate N.C.O., who had orders to take Rickey into custody, found him at the palace gate and then saw him run into the interior of the building. After a chase he came up with him in the angle of one of the passages and saw that he had a cavalry pistol in each hand. Here the cornered quarry shot his pursuer dead. The trial resulted in a conviction and death sentence, but afterwards the prisoner was granted a free pardon on condition that he left the country for life.

13 July.—Lord Campbell's career as Chancellor of Ireland was as brief as it was unpopular. He sat for the first time on the 2nd July, 1841, and on the 13th July concluded his labours. The furious resentment aroused at the Irish Bar by his appointment had been too much even for this aspiring and not unduly sensitive Scot, and their determination to secure the principle that judicial appointments in Ireland should be the reward of native talent was too deep-rooted to be ignored.

14 July.—On the 14th July, 1781, Monsieur de la Motte, a retired officer of the French Army, was tried at the Old Bailey for high treason. He had been deeply implicated in espionage and had collected the most exact information as to the condition and movements of the Royal Navy. The chief witness against him was an accomplice. He was convicted and sentenced to the barbarous form of execution then suffered by traitors, hearing his fate with the composure of a man conscious of his own integrity in the service of his country. So impressed were the authorities by his character and demeanour that the most unusual measures were taken to ensure his comfort in prison.

15 July.—On the 15th July, 1924, Patrick Mahon stood before Mr. Justice Avory on a charge of murder. A great crowd gathered at the Lewes Assizes to witness the struggle for life. The morbid public imagination had been caught by the gruesome story of the vain, fascinating man who had murdered and dismembered his mistress in an Eastbourne bungalow, and, while her remains were yet lying in a locked room, invited another woman to stay there. The judge's deadly summing-up brought the inevitable verdict of "Guilty."

16 July.—On the 16th July, 1699, a crowded court at Hertford Assizes witnessed the unusual spectacle of four lawyers in the dock on a charge of murder. The chief of the accused was Spencer Cowper, a rising barrister and afterwards a judge, whom the unwelcome attentions of a love-sick girl had brought to this situation. She had been infatuated with him. He had been unresponsive. One morning after he had visited the house of her parents she had been found drowned. Rumour and scandal had got to work and the trial had ensued. It resulted in an acquittal.

17 July.—At the Old Bailey Sessions which ended on the 17th July, 1767, a burglar, a house-breaker and a horse-stealer were sentenced to death. One prisoner was sentenced to fourteen years transportation and thirty to seven. Four got off with a branding. The brighter side of the sessions was that twenty-four capital convicts awaiting disposal received His Majesty's gracious pardon on condition of being transported.

THE WEEK'S PERSONALITY.

Lord Hermand was among the last of the rough old Scottish judges whose rugged personalities often made the administration of justice so picturesque in eighteenth-century Edinburgh. Energetic, impatient and sarcastic, he was nevertheless extremely popular with the Bar. Repose, except in bed, was utterly contemptible to him, and hard drinking was a virtue productive of virtuous actions. A curious example of his style may be seen in his summing-up in a case in which the prisoner had pleaded drunkenness as an excuse for his crime. "We are told," he said, "that there was no malice and that the prisoner must have been in liquor. In liquor! Why, he was drunk and yet he murdered the very man who had been drinking with him! They had been carousing the whole night and yet he stabbed him! After drinking a whole bottle of rum with him! Good God, my lards, if he will do this when he's drunk, what will he not do when he's sober?" When "Guy Mannering" came out he was so delighted with the picture it drew of the life of the old Scottish lawyers that he carried it about wherever he went, and one day in court he succeeded in dragging the subject into the middle of a dry legal argument and read aloud a whole passage in spite of the remonstrances of his brethren.

NO THERMOMETER OF HAPPINESS.

Langton, J., said a wise word when he declared in a recent case that "we have no thermometer of happiness." and observed that "there must be dustmen who regard life as a much better thing than does the jaded and careworn millionaire." One recalls how Darling, J., once said in the case of an injured boy: "It is not the mere spending of money that makes one happy. One might be quite as happy with little money in the Navy as one could be with a lot of money at the Bar. There may be nothing in the world now open to this boy but to become a King's Counsel, or worse, a Judge." Youth and age Mr. Justice Langton, likewise, discarded as a test of happiness, declining to infer that a person enjoyed life more at twenty-three than at forty-four. He might have cited the words spoken not long ago by a venerable Canadian judge on his ninetieth birthday: "I am still at work, with my hand to the plough and my face to the future. The shadows of evening lengthen about me, but morning is in my heart. I have warmed both my hands before the fire of life. The testimony I bear is that the Castle of Enchantment is not behind me. It is before me, and still I catch glimpses of its battlements and towers."

THE BENCH IN PERIL.

Mr. Langley, the Old Street magistrate, recently said that whether Communism or Fascism got into power, the first people to be strung up from metropolitan lamp-posts would be metropolitan magistrates. He was referring to the hundreds of abusive letters showered upon them by supporters of the respective ideologies. Formerly it was Irish malcontents who used to put our judicial officers in bodily fear. Once during the Bristol Assizes, at a time when the trials resulting from various dynamite outrages had made police protection for the judges necessary, the lights failed at a public dinner given by the Lord Mayor of that city. When candles illuminated the darkness one of the judges was seen emerging from beneath the table, where he had taken refuge from an apprehended Fenian attack. During "the troubles" Serjeant Sullivan, while acting as one of the "Lords Justices of Assize," had the unusual experience of being nearly shot by one of his bodyguard. Returning from an evening walk to the judge's lodgings at Sligo, he and his escort were held up by two Black and Tans, who "debated in the most friendly manner the propriety of trying a Lewis gun on us armed civilians." His rank and dignity once established, they "offered an ample apology, not altogether complimentary to my personal appearance."

Notes of Cases.

House of Lords.

Avery *v.* **London and North Eastern Railway Company; Same** *v.* **Same; Harris** *v.* **Same; Same** *v.* **Same; Bonner** *v.* **Same; Same** *v.* **Same; Watson** *v.* **Same; Same** *v.* **Same.**

Lord Maugham, L.C., Lord Atkin, Lord Thankerton, Lord Russell of Killowen, and Lord Macmillan.

12th May, 1938.

MASTER AND SERVANT—WORKMAN KILLED DURING EMPLOYMENT — COMPENSATION CLAIMED BY DEPENDANTS—DAMAGES CLAIMED BY WIDOW—ASSESSMENT OF DAMAGES AND COMPENSATION—EMPLOYERS' LIABILITY ACT, 1880 (43 & 44 Vict., c. 42)—WORKMEN'S COMPENSATION ACT, 1925 (15 & 16 Geo. 5, c. 84).

Appeals from orders of the Court of Appeal [1937] 2 K.B. 515; 81 SOL. J. 478.

A railway accident occurred in January, 1936, on the London and North Eastern Railway. Workmen were being carried in the course of their employment in a ballast train which was run into by two light engines, and they received injuries from which they died. In Avery's case his widow recovered under the Employers' Liability Act, 1880, the maximum sum of £396, and an unmarried daughter obtained an award under the Workmen's Compensation Act, 1925, of £65. In Harris's case the widow recovered judgment for £380, and two infant children obtained an award of £310. In Bonner's case the widow recovered £389, and the two infant children obtained an award of £123 18s. In Watson's case the widow recovered judgment for £390, and the children, two of whom were infants, obtained an award of £348 6s. On appeal by the railway company, the Court of Appeal held that the county court judge had proceeded on the wrong basis in assessing the awards, and they remitted all the cases to the county court judge for fresh calculation and assessment. Accordingly, four of the appeals were in respect of actions by widows under the Fatal Accidents Acts and the Employers' Liability Act, and four of them in respect of proceedings by children under the Workmen's Compensation Act.

LORD ATKIN said that the county court judge, in assessing the damages of the widowed plaintiffs, refused to take into account that there were other dependants, the children, who were not claiming in the actions. In the arbitration proceedings he awarded to the applicant children compensation either for total or partial dependency. In no case did he award the maximum under the Act, but in each case he declined to take into consideration the fact that there was another dependant, the mother, who was not in fact applying for compensation under that Act. The Court of Appeal held that both the Employers' Liability Act and the Workmen's Compensation Act provided a limited compensation for a group of injured dependants: that the compensation in both Acts must be awarded as though all the injured group were before the court; and that no one member was to receive more compensation than he or she would have received if compensation were being assessed for all. He (his lordship) could not agree with that construction of either Act. He could see no ground under the Employers' Liability Act for assessing damages on any other footing than that the judge had only to consider the parties in fact before him. On the four actions, therefore, he came to the conclusion that the county court judge was correct in his procedure and that his judgments should not be disturbed. The position under the Workmen's Compensation Act seemed to be identical. The claiming dependants must be named. The judge was given notice that there were or might be other dependants, but it seemed clear that, if the dependants named as respondents continued at the hearing to neglect or refuse to join in the application, the judge's duty was to ignore them and to distribute among those who did make the application the

lump sum compensation available in accordance with the provisions of the Act. There was no reason why the judge should in any way take into account the claims of persons who neglected or refused to apply for compensation. In the present case the widows did not claim, because they had elected to claim independently of the Workmen's Compensation Act, and were deprived by s. 29 of the right to claim. He doubted whether, in the circumstances, they could be said to have neglected or refused to join in the application, words which might be thought to apply only to those who otherwise would have a lawful claim. But in any case the judge was made fully aware in each proceeding of the existence of the widow; he had already dealt with her case under the Employers' Liability Act in the actions. No objection based on the widow's not being named as respondent could have any substance. As the widows were not applicants, the judge was only doing his duty in ignoring them when awarding compensation among those who were applicants. His judgments and awards should be restored and the appeals be allowed.

The other noble and learned lords concurred.

COUNSEL: *Sir William Jowitt*, K.C., *G. J. Lynskey*, K.C., and *W. Shakespeare*, for the appellants; *Schiller*, K.C., and *F. W. Beney*, for the respondents.

SOLICITORS: *Pattinson and Brewer; I. B. Pritchard.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

Thomas *v.* Hammersmith Borough Council.

Greer, Slesser and MacKinnon, L.JJ.
2nd June, 1938.

CONTRACT—BUILDING CONTRACT—ABANDONMENT OF BUILDING—REMUNERATION OF ARCHITECT.

Appeal from a decision of Porter, J.

In June, 1933, the defendant council resolved to appoint the plaintiff architect in connection with its scheme for the erection of a town hall and to agree to pay his fees in accordance with the scale of the Royal Institute of British Architects, it being agreed that the scale charge should be inclusive of all incidental fees and services in connection with the works. This was accepted by the plaintiff. The fees payable under the scale were certain defined percentages on the total cost of all executed works varying according to the amount of the building contract. A fee for partial service was provided for by cl. 5: "If the project or part of it be abandoned, or if the services of the architect cease or are dispensed with before a contract is entered into or order given, the charges in respect of the works abandoned or for which the architect was employed (as the case may be) are as follows: (*a*) for taking client's instructions, preparing sketch design and making approximate estimate of cost by cubic measurement, or otherwise, one fourth of the percentage [already mentioned] on the estimated cost of such works; (*b*) for taking client's instructions, preparing sketch design, making approximate estimate of cost by cubic measurement, or otherwise, and preparing drawings and particulars sufficient to enable quantities to be prepared or a tender to be obtained, two thirds of the percentage [already mentioned] on the estimated cost of such works." In September, 1935, the council decided to abandon the scheme and terminate the plaintiff's agreement. At that time he had on their express instructions done all the work set out in cl. 5 (*a*) and a substantial part of the additional work set out in cl. 5 (*b*). In an action against the council, the plaintiff contended that having employed him on the subject-matter of cl. 5 (*b*) (i.e., to prepare drawings sufficient to enable quantities to be prepared) they could not exercise their power of abandoning the project or terminating his employment at the end of the work contemplated in cl. 5 (*a*) and, accordingly, were obliged to permit him to complete his work and earn his fee under cl. 5 (*b*) or pay damages for breach of contract in preventing him from so doing. The defendants contended that they could abandon the project at any time and that as the plaintiff had not completed the work under cl. 5 (*b*) he was not entitled to claim anything thereunder. Porter, J., gave judgment for the plaintiff.

GREER, L.J., dismissing the defendants' appeal, said that it was involved in the scale that if the work mentioned in cl. 5 (*a*) or the additional work mentioned in cl. 5 (*b*) had been partly done there was an obligation on the building owner to allow the work in either case to be completed.

SLESSER and MACKINNON, L.JJ., agreed.

COUNSEL: *Pritt*, K.C., and *Willes; J. Morris*, K.C., and *G. Sharp.*

SOLICITORS: *Hugh Royle*, Town Clerk, Hammersmith; *Kenneth Brown, Baker, Baker.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Insole.

Greene, M.R., Scott and Clauson, L.JJ.
30th June and 1st July, 1938.

SETTLED LAND—BUILDING OF GREENHOUSES, GARAGE AND BOILER HOUSE—THIRTY YARDS FROM MANSION HOUSE—WHETHER STRUCTURAL ADDITIONS—SETTLED LAND ACT, 1925 (15 Geo. 5, c. 18), Sched. III, Pt. II, sub-cl. (v).

Appeal from a decision of Simonds, J. (82 SOL. J. 195).

In 1898 an estate in Somerset was settled in strict settlement. When it was sold part of the proceeds were used to buy a house and grounds in Hampshire. The house being converted from a shooting lodge, it was deemed reasonably necessary, for its convenient occupation, to put up a new range of buildings, comprising glasshouses, a garage, a chauffeur's flat, an engine room, a battery room, a tool shed, a boiler house, a workshop and a potting shed. The buildings put up by the tenant-for-life stood between 30 and 50 feet from the back of the house. Simonds, J., refused to approve the expenditure of capital moneys in paying for them as being improvements within the Settled Land Act, 1925, Sched. III, Pt. II, sub-cl. (v): "Structural additions to or alterations in buildings reasonably required . . ."

GREENE, M.R., allowing the tenant-for-life's appeal, said that the works were reasonably required, and the only question was whether they were "structural additions" to buildings. To comply with the Act it must be possible to say that the additions and the buildings to which they were additions had such a relationship that they formed a whole or unit. It was impossible to accept the test that in order to form such a unit they must actually touch. Further, it was not a satisfactory test that the only matter to be considered should be the physical nearness of the addition. The whole group of buildings should be considered, regard being had to their relationship to one another, their use, and so forth. Physical nearness was a relevant consideration, but not the only one. His lordship referred to *In re Lord Gerrard's Settled Estates* [1893] 3 Ch., at p. 260, and *In re Blagrave's Settled Estates* [1903] 1 Ch. 560, and said that the appeal must be allowed.

SCOTT and CLAUSON, L.JJ., agreed.

COUNSEL: *Spens*, K.C., and *H. Freeman; G. P. Slade; Dare; E. Riviere.*

SOLICITORS: *Collyer-Bristow & Co.; Henry S. L. Polak & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Burton *v.* Dobson Ship Repairing Co. Ltd.

Greer, Slesser and MacKinnon, L.JJ. 28th June, 1938.

WORKMEN'S COMPENSATION—ACCIDENT TO SHIPWRIGHT APPRENTICE—COMPENSATION PAID FOR PARTIAL INCAPACITY—CHANGE OF EMPLOYMENT—APPLICATION

FOR REVIEW—EFFECT—WORKMEN'S COMPENSATION ACT, 1925 (15 & 16 Geo. V, c. 84), s. 11 (2)—WORKMEN'S COMPENSATION ACT, 1926 (16 & 17 Geo. 5, c. 42), s. 1.

Appeal from Grimsby County Court.

In August, 1932, a sixteen year old apprentice shipwright was injured in the eye. He was paid compensation as for partial incapacity, obtaining a declaration of liability on the 7th November, 1933, in the Grimsby County Court. He attained twenty-one years on the 14th June, 1937, and his apprenticeship would have expired on the 23rd February, 1938, but before that date he left his employment and obtained other work as a baker in his mother's business. At the age of twenty-one years he was earning 30s. a week and later he earned 35s. a week. Had he continued his apprenticeship he would not under his agreement have been earning more than 30s. a week. On the 8th December, 1937, his solicitor wrote a letter to the employers with respect to the injuries and the declaration of liability, in which he said: "My client applies for a review and asks for a weekly payment in respect of his partial incapacity at 18s. a week." In the arbitration proceedings on the 19th May, 1938, His Honour Judge Langman held that as regarded the period before the apprenticeship would have expired the workman had not made out a case, but as regarded the subsequent period he awarded 12s. 6d. a week, being half the difference between 35s. a week, which the workman was actually earning, and £3 a week, which he would probably have been earning as a fully qualified journeyman if he had served his full apprenticeship.

GREER, L.J., dismissing the employers' appeal, said that s. 11 (2) of the Workmen's Compensation Act, 1925, as amended by s. 1 of the Workmen's Compensation Act, 1926, enabled an application for a review of weekly payments of compensation to be made which could not have been made under the earlier Acts. The application for a review meant application to the employers and not necessarily to the court (*Vickers-Armstrong Ltd.* v. *Regan*, 101 L.J.K.B. 657). Here the application was made within six months after the workman attained twenty-one years (s. 11 (2)). If the application was made in time, then, when the case came on, the judge had power to increase the weekly payment of compensation to such an amount as would have been awarded if the workman had at the time of the accident been earning the weekly sum which he would probably have been earning at the date of the review if he had remained uninjured. The judge made no mistake in law.

SLESSER and MACKINNON, L.JJ., agreed.

COUNSEL: *J. Pugh*; *Walker Carter*.

SOLICITORS: *Carpenters*, for *F. G. & H. E. Smith*, of Bradford; *Smith & Hudson*, for *Walter West*, of Grimsby.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Foster; Hudson *v.* Foster.

Crossman, J. 24th June, 1938.

INSURANCE—LIFE ASSURANCE—POLICY TAKEN OUT BY FATHER ON SON'S LIFE—DEATH IN SON'S LIFETIME—WHETHER POLICY MONEYS PART OF HIS ESTATE—LAW OF PROPERTY ACT, 1925 (15 Geo. 5, c. 20), s. 56.

In 1908, R.F. took out a policy of assurance on the life of his thirteen-year-old son, W.F., the proposal form being headed: "Proposal for assurance on the life of a child." Nothing referred to the policy having been taken out for or on behalf of or for the benefit of any person other than the person proposing the assurance. Under the policy the policy moneys were expressed to be payable to the representatives or assigns of the person whose life was assured, i.e., W.F. The moneys were payable on the death of that person whose life was assured provided it happened after the 26th September, 1916, the date on which W.F. would attain twenty-one years. If he died before the 27th September, 1916, 90 per cent. of the premiums paid were to be returned to the assured, R.F., or to his representatives or assigns. It was provided that at any time between the 27th September, 1916, and the 26th September, 1917, the policy might be (A) "converted into an endowment assurance" or (B) "maintained as an assurance payable on death, the premiums ceasing" on certain terms. R.F. died in 1925, having paid all the premiums till then. W.F. continued to pay the premiums till 1932, when he became of unsound mind, and thereafter the receiver appointed for his estate paid them. W.F. died in 1936. The question arose whether the policy moneys were payable to his legal personal representative or to that of R.F.

CROSSMAN, J., said that no trust was created of the policy moneys in favour of W.F. (*In re Engelbach's Estate* [1924] 2 Ch. 348; *In re Sinclair's Life Policy*, 54 T.L.R. 918). *Worthington* v. *Curtis*, 1 Ch. D. 419, was not inconsistent with the earlier cases on this point. Further, the Life Assurance Act, 1774, did not affect the question of the right to the policy as between rival claimants thereto. Dealing with another contention his lordship said that the Law of Property Act, 1925, s. 56, applied to personal as well as real property, but its effect was not that any beneficiary under a contract could sue on it, though he was not a party to it. (*In re Ecclesiastical Commissioners for England's Conveyance* [1936] Ch., at p. 438; *White* v. *Bijou Mansions Ltd.* [1938] 1 Ch., at p. 365). It did not apply here, because the representative of W.F. was not, on the true construction of the document, the person with whom the contract to pay the policy moneys was made. He was only the nominee of R.F. who was the only person to whom rights were given and with whom a contract was made. The policy moneys belonged to the legal personal representative of R.F.

COUNSEL: *J. L. Stone*; *R. W. Turnbull*.

SOLICITORS: *Sweepstone, Stone, Barber & Ellis*, for *Ford & Warren*, of Leeds; *Speechly, Mumford & Craig*, for *Mumford, Thompson & Bird*, of Bradford.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Cartwright; Cartwright *v.* Smith.

Bennett, J. 6th and 11th May, and 1st July, 1938.

SETTLEMENT—CONVERSION OF REALTY INTO PERSONALTY—INVESTMENTS REPRESENTING REALTY—WHETHER DEVOLVING AS PERSONALTY UNDER WILL MADE ABROAD—WILLS ACT, 1861 (24 & 25 Vict., c. 114), s. 1—SETTLED LAND ACT, 1925 (15 Geo. 5, c. 18), s. 75 (5).

In 1934 a testator resident in France who had not abandoned his English domicile executed a will in accordance with French law directing therein: "I wish at my death to leave everything to my wife." He died in 1936. As tenant for life he had sold in his lifetime parts of certain freehold property subject to his marriage settlement. Under the terms thereof and in the events which had happened he had power to dispose of the ultimate balance of the proceeds of sale consisting of investments standing in the name of the sole surviving trustee. The question arose whether this passed to the testator's widow as personalty by virtue of the Wills Act, 1861, s. 1.

BENNETT, J., said that these investments could be disposed of by such a will as this if they were personal estate, but not if they were notionally freehold land. It had been argued that the Settled Land Act, 1925, s. 75 (5), had the effect of converting them into freehold land (*In re Twopeny's Settlement* [1924] 1 Ch. 522). But the law relating to the devolution of real property had changed since that case, and was now the same as that of personal estate. The sub-section did not convert these securities into real estate, and they were

capable of being disposed of by a will admitted to probate under the 1861 Act. The gift in the will included them.

COUNSEL: *Cohen*, K.C., and *W. M. Hunt*; *P. Brough*; *Harman*, K.C., and *Rawlence*.

SOLICITORS: *Pennington & Son*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Haynes *v.* Turton; Haynes *v.* Lear.

Branson, Humphreys and du Parcq, JJ.
12th May, 1938.

EDUCATION—CHILD TAKEN TO HOP FIELDS OUTSIDE AREA OF EDUCATION AUTHORITY—NO SCHOOL WITHIN THREE MILES OF HOP FARM—NON-ATTENDANCE AT SCHOOL—WHETHER REASONABLE EXCUSE.

Appeals by cases stated from decisions of Monmouthshire justices.

In *Haynes* v. *Turton* (the facts in *Haynes* v. *Lear* being substantially similar), a complaint was preferred at Pontypool by the appellant, Haynes, an attendance officer of the Monmouthshire Education Authority, under s. 46 of the Education Act, 1921, against the respondent, James Turton, alleging that he, being the parent of a child residing within the County of Monmouth, who was not less than five nor more than fourteen years old, namely, Joan Turton, had not caused the child to attend a certified efficient school in September, 1937, there being no reasonable excuse for non-attendance, contrary to the bye-laws then in force in the county under the Education Act, 1921. The following facts were proved or admitted: The respondent, Turton, was a labourer, and usually lived with his wife and two children within the urban district of Pontypool. The children usually attended a certified efficient school in the urban district. Throughout September, 1937, that school was open for the attendance of children, and from the 3rd September to the 1st October, Turton's daughter, Joan, then aged thirteen, did not attend. During August, 1937, Mrs. Turton went with her two children, with the respondent's consent, for the purpose of hop-picking to a farm in the County of Hereford. The respondent remained at Pontypool. Many families from the Pontypool urban district went to the hop fields. The respondent's wife and her two children lived on the farm during August and September, and Mrs. Turton was there employed in the hop fields. It would have been impracticable for the children to stay with their father, as it would have necessitated his employing a woman to look after them: and it was better for their health that they should accompany their mother. During Mrs. Turton's employment in the hop fields there was no public elementary school open within a distance of 3 miles at which her children could attend school. For the appellant it was contended that "residence" meant the same as "home"; that "home" meant "permanent home"; that Joan Turton was during September, 1937, and while living with her mother in Herefordshire, residing at Pontnewynydd, in the County of Monmouth; and that the respondent had failed to cause her to attend school, contrary to the bye-laws. The justices were of opinion that, as Joan Turton was at the material dates resident with her mother, who was *bonâ fide* in employment, and living in the County of Hereford and more than 40 miles from the Urban District of Pontypool, she was, therefore, unavoidably prevented from attending school in the area of the Monmouthshire Education Authority; and that, as there was no public elementary school which the child could attend within 3 miles from her residence, there was a reasonable excuse for the child's not attending school in the district of the Monmouthshire Education Committee, and alternatively that, during September, 1937, the child was outside the jurisdiction of that court and was not subject to the bye-laws. Counsel for the appellant referred to *L.C.C.* v. *Maher* [1929] 2 K.B. 97; *Rednall* v. *Beamish*, 42 T.L.R. 538, and *Stoke-on-Trent Borough Council* v. *Cheshire County Council* [1915] 3 K.B. 699).

BRANSON, J., said that he was not prepared to hold that there was no evidence on which the justices could find that there was reasonable excuse for the children's non-attendance, and the result was that the appeals must be dismissed.

HUMPHREYS and DU PARCQ, JJ., agreed.

COUNSEL: *R. G. Micklethwait* for the appellant. There was no appearance by or on behalf of the respondent.

SOLICITORS: *Bowen & Son*, Pontypool.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Minister of Labour *v.* Stephens and Others.

Branson, J. 14th June, 1938.

INSURANCE (UNEMPLOYMENT)—FARM USED FOR BREEDING FUR-BEARING ANIMALS—EMPLOYMENT ON FARM IN CONNECTION WITH ANIMALS—WHETHER EMPLOYMENT IN AGRICULTURE.

Issues referred to the court by the Minister of Labour under s. 84 (1) (*b*) of the Unemployment Insurance Act, 1935.

In the first issue, which was selected for argument, the facts of the second issue being substantially similar, the owners of a fur farm employed one, Edwin Otway, on the farm, which they used for the breeding and rearing of silver fox, mink, nutria and rabbits. The farm occupied an area of 64 acres, of which 44 acres were woodland and 20 acres grass; 1½ acres of woodland were used for mink, 2 acres of grass for fox enclosures, and half an acre of woodland for nutria. A barn was used for rabbits. About 20 acres of grass were let for grazing, and 30 acres of woodland were used for depasturing worn-out cattle and horses awaiting slaughter for food for the foxes and mink. There was a workshop, and part of the grassland was used also to accommodate the fox and mink pens, as well as two enclosures for nutria. Eighty per cent. of the food used for the animals was bought. Otway received a weekly wage of £1 10s. and the free use of a house. His duties were to prepare food for foxes and mink, feed and water foxes, to do general work in connection with the upkeep of the farm, and to perform other duties, such as to driving a motor lorry. During the whole period of his employment, unemployment insurance was paid at the agricultural rate prescribed by the Unemployment Insurance (Agriculture) Act, 1936. The question raised by the employers' application was whether Otway's employment was agricultural within the meaning of that Act.

BRANSON, J., said that the definition of "agriculture" in s. 16 (1) of the Act of 1936 stated merely that it "includes horticulture and forestry." The question whether certain activities were agricultural or not had arisen in many cases which were not all reconcilable. In *Peterborough Royal Foxhound Show Society* v. *Inland Revenue Commissioners* [1936] 2 K.B. 497, Lawrence, J., held that the breeding of foxhounds was the breeding of livestock, and that the society breeding them was therefore within the definition of agricultural society in s. 23 (2) of the Finance Act, 1924. In dealing with the contention that the words there should only apply to animals whose use was an integral part of agriculture, horticulture or forestry, Lawrence, J., said that that would exclude many animals bred in the ordinary course of agriculture, such as van horses, hackneys, hunters, most breeds of dogs, "and fur-bearing animals." That seemed to be a finding that fur-bearing animals could properly be regarded as livestock. On the other hand, in the Scottish case of *Inland Revenue Officer* v. *Ardross Estates Co.* [1930] S.C. 487, it was held that land and buildings devoted to the breeding and rearing of silver foxes for the sake of their pelts were not "agricultural lands and heritages" within s. 9 (11) of the Rating and Valuation (Apportionment) Act, 1928, on the ground that such animals were not associated with an ordinary farm, as were horses, cattle, etc. He

(Branson, J.) preferred Lawrence, J.'s, view. The true view seemed to be that, where there was a plot of land in the country used for raising fur-bearing animals and to a not inconsiderable extent for the production of their food, persons employed in relation to the feeding of or raising of food for such animals were persons employed in agriculture, and entitled to be insured at the rates prescribed by the Act of 1936.

COUNSEL: *Arthian Davies*, for the Minister of Labour; *Barington Jones*, for the vice-president of the Silver Fox Breeders' Association, who, the employers not appearing, appeared by leave of the court.

SOLICITORS: *The Solicitor to the Ministry of Labour; A. W. Woolf & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Walton *v.* Jacob.

Lord Hewart, C.J. 13th July, 1938.

NEGLIGENCE—PERSONAL INJURIES—DEATH OF INJURED PERSON—CLAIM BY ADMINISTRATOR OF DECEASED'S ESTATE—LOSS OF EXPECTATION OF LIFE—MEASURE OF DAMAGES—LAW REFORM (MISCELLANEOUS PROVISIONS) ACT, 1934 (24 & 25 Geo. 5, c. 41).

Action for damages for personal injuries, tried by Lord Hewart, C.J., with a special jury.

The plaintiff, as administrator of the estate of his son, who, at the age of twenty-one years, was killed in a collision between his bicycle and a motor-car driven by the defendant, sued the defendant for damages in respect of the deceased's loss of expectation of life. The defendant having withdrawn a denial of negligence and an allegation of contributory negligence on the part of the deceased, the only question for the jury was the amount of damages to be awarded under the Law Reform (Miscellaneous Provisions) Act, 1934. There was no claim under the Fatal Accidents Act, or in respect of pain and suffering, as the deceased never recovered consciousness after the accident.

LORD HEWART, C.J., in summing up, said that the right of action which existed before 1934 under Lord Campbell's Act still existed, but on it had been grafted another law called the Law Reform (Miscellaneous Provisions) Act, 1934, s. 1 (1) of which provided: "On the death of any person after the commencement of this Act all causes of action . . . vested in him shall survive . . . for the benefit of his estate." That was a clear departure from the old principle, now relegated to limbo, that a personal action died with the person. Stripped of legal technicality, s. 1 (2) seemed to provide that although a man were dead, there nevertheless remained, not indeed for his benefit, which was impossible, but for the benefit of his estate, all causes of action vested in him. Applying that to the case of what was called an accident, the position seemed to be that, at the moment preceding his death, a person was a man of some particular position in life, with some particular outlook, or lack of outlook, on life, and some expectation or lack of expectation of life, and that, through some event for which he was not directly or indirectly responsible, that expectation had been brought to an end. The point of certain expressions in *Rose* v. *Ford*, 81 SOL. J. 683; [1927] A.C. 826, was that the normal expectancy, whatever that might be, of the continuance of life, whatever it might be worth, was a subject of temporal value. That was obviously difficult to deal with, and appeared at first sight to be something intangible and elusive. The tribunal which was to put a figure on it was to do so after the person's death, and the mind had to be brought to bear on the loss of expectation of life after that loss had occurred. It seemed that mental agility and gymnastics were required by the jury, but the question had to be faced. The way in which such a problem might be approached would depend on a variety of incalculable factors. Some might look at statistics from an insurance point of view. That would be quite wrong. According to insurance tables, his expectation of life was so many years. Therefore his estate must receive a capital sum representing his earnings for that period. That was manifestly wrong. He (his lordship) was not prepared to suggest to them (the jury) any imaginary body of rules, principles or guides to determine their judgment. Parliament had left the question to the well-known good sense, good conscience, skill and judgment of a jury. But some remarks of a general character he would offer. They were sitting as a jury to assess a sum which they were not going to be called on to pay themselves, but which someone else would have to pay. They should be even more careful than they otherwise would. The question for them was: "What was a fair sum to be recovered for the benefit of the estate by reason, and by reason only, that the expectation of life had been suddenly put an end to?" Views on that question might vary between the opinion which would rate the amount at something almost negligible, and at the other end of the scale the opinion which rated it at a very high figure indeed. Here was a young man in good health approaching his twenty-second birthday. He had a father in business, and he himself was going into business. He had done well at school and in games. That life had been cut short. The question was how the jury were going to translate the claim into the hard terms of pounds sterling. The jury having returned a verdict for £2,000, to include the sum claimed as special damages, judgment was entered for the plaintiff accordingly.

COUNSEL: *W. N. Stable*, K.C., and *A. Ross* (*James Macmillan* with them), for the plaintiff; *John Flowers*, K.C., and *Armstrong-Jones*, for the defendant.

SOLICITORS: *Russell Jones & Co.; Stanley & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

[For Table of Cases previously reported in current volume see page iii of Advertisements.]

Obituary.

SIR GEORGE TALBOT.

The Right Hon. Sir George John Talbot, a Judge of the King's Bench from 1923 until 1937, died at Edenbridge, Kent, on Monday, 11th July, at the age of seventy-seven. He was educated at Winchester and Christ Church, Oxford, and in 1886 he was elected a Fellow of All Souls College. In 1887 he was called to the Bar by the Inner Temple, and specialised in local government, rating and ecclesiastical cases. He took silk in 1906, and became a leader of the Parliamentary Bar. In 1914 he was made a Bencher of his Inn, being elected Treasurer in 1936. In addition to his practice at the Bar he was Chancellor of the dioceses of Lincoln, Ely, Lichfield, Rochester, Southwark and Winchester. In 1923, on the retirement of Mr. Justice Darling, Sir George was appointed a Judge at the age of sixty-two. He was a scholarly and learned lawyer, and on the Bench he showed that he possessed the true judicial temperament. He retired in 1937 and was sworn a member of the Judicial Committee.

MR. R. V. LE BAS.

Mr. Reginald Vincent Le Bas, Barrister-at-Law, of King's Bench Walk, Temple, E.C., died at Winsford, Somerset, on Thursday, 7th July. Mr. Le Bas was called to the Bar by Lincoln's Inn in 1894, and practised in the Probate, Divorce and Admiralty Division and on the North-Eastern Circuit.

MR. J. B. WILLIAMSON.

Mr. John Bruce Williamson, Barrister-at-Law, of Elm Court, Temple, E.C., died in London on Thursday, 7th July, at the age of seventy-nine. Mr. Williamson was called to the Bar by the Middle Temple in 1887 and went the North-Eastern Circuit. He became a Bencher of his Inn, and in 1924 he published "The History of the Temple."

The Law Society.

ANNUAL GENERAL MEETING.

The Law Society held its Annual General Meeting on the 8th July, at Bell Yard. The retiring President, Sir FRANCIS E. J. SMITH, took the chair.

The CHAIRMAN announced that Mr. WILLIAM WAYMOUTH GIBSON and Mr. RANDLE FYNES WILSON HOLME stood elected, without counter-nomination, as president and vice-president respectively for the ensuing year.

Mr. GIBSON, in thanking the Society for his election, said that the experience of the past was a good guide for the future. He had had eighteen years' experience on the Council's side of the table and hoped that, with the help of his colleagues on the Council and of the Secretary and his excellent staff, he would be able to ensure that the work of the Council should be adequately carried out during his year of office.

The CHAIRMAN conveyed to the meeting the apologies of Mr. Holme for absence on unavoidable business, and his thanks for the honour which his colleagues had conferred upon him. Mr. Holme was, said Sir Francis, one of the greatest experts on income tax problems and would give the Council useful assistance in considering any Finance Bill that the Government might introduce.

The following members of Council were elected without counter-nomination: Mr. P. D. Botterell, Mr. W. C. Crocker, Mr. F. J. F. Curtis, Mr. W. Davies, Mr. A. F. B. Fforde, Mr. H. M. Foster, Mr. D. T. Garrett, Mr. W. E. M. Mainprice, Mr. C. G. May, Mr. W. C. Norton, Sir Reginald Poole, and Mr. G. S. Pott.

Mr. J. S. Chappelow, Mr. J. C. Mander and Mr. P. W. Taylor were re-elected as auditors.

Seconding the motion by the Chairman that the accounts be received and adopted, Mr. A. C. MORGAN, hon. treasurer, said that the year had been a fairly ordinary one and the buildings had been written down by a medium figure of £6,000, which was a fair indication of the year's finances. The result was satisfactory, especially considering that the item "Law and Parliamentary Expenses" showed an increase of over £2,000, the increase being almost entirely due to expenses of discipline and to accountants' fees for inspections under the new rules. Additional copies of the Handbook were available to members at 5s. and of the Digest at 10s. This very low price for the new Black Book had been fixed in order that it might be made available for all members.

Before moving the adoption of the Annual Report, the CHAIRMAN said that Sir Edmund Cook, the Society's Secretary, had suffered a breakdown in health last December and had been given leave of absence to take a voyage to the Cape. On his return his health had not been fully re-established, and the Council had extended his leave until the end of September. Every member would hope that the Secretary would then resume his work with a renewed supply of health. Every member of the Council owed him a deep debt of gratitude for his single-minded devotion to their interests for close on thirty years.

DIVORCE WORK ON ASSIZES.

Moving the adoption of the Annual Report, the President recalled that the Council had, last November, approached the Lord Chancellor and urged that district registries should have unlimited jurisdiction to deal with divorce petitions, and that such petitions should be tried at all assize towns, in view of the probable effect of the Matrimonial Causes Act, 1937. They had been told that it appeared prudent first to see how the operations under the new Act developed before making such sweeping changes. The Council, however, had felt so strongly that their reforms were necessary that they had asked the Lord Chancellor to receive a deputation. After the Act had come into force the Council's fears of a heavy increase in the applications to the poor persons committees had proved justified, and an interview had been secured with the President of the Divorce Division and the Lord Chancellor's Secretary. A letter from the Council addressed to all provincial poor persons committees contained the Council's opinion that it did not seem logical that, while all poor persons' cases could be taken at assizes, paid defended cases must automatically go to London; nor did it seem difficult to devise a scheme under which two divorce judges should follow judges of assize three times a year so as to be able to deal with all divorce cases. The President of the Division had then indicated the limits to which he could go in meeting the views of the Council. The Council did not consider that this proposal (p. 114, Annual Report) went far enough, but they felt that it might advance the object which they had in view, and they would continue to press for full jurisdiction for the district registries.

The Administration of Justice (Miscellaneous Provisions) Bill provided for the appointment of "legally qualified persons" as chairmen and deputy chairmen of Quarter Sessions. As introduced, it had not provided that a solicitor should be a "legally qualified person." The Council had represented to the Lord Chancellor's Department that solicitors should also be eligible for appointment, and the Bill had been amended in Committee of the House of Lords to render eligible solicitors of not less than ten years' standing. The Bill (as amended) also extended the jurisdiction of county courts in actions of contract or tort to £200. A county court registrar might, on the application of the parties and by leave of the judge, hear and determine any action involving a sum not exceeding £10. The Council, having received the views of the provincial societies, had decided not to object to the proposals contained in the Bill as amended.

SALARIES OF CHANCERY MASTERS.

The salaries of the King's Bench Masters had been recently increased, but no similar increase had been made in the salaries of the Chancery Masters. The Council had represented strongly that, the work being of equal responsibility, the salaries of both should be the same. In 1897 Chancery masterships had become available for barristers for the first time. Until 1901 both barristers and solicitors had been appointed to the office of Master of the King's Bench Division, although as a general rule only barristers had been appointed. In that year an understanding had been reached that masterships in the King's Bench Division should be reserved for barristers and in the Chancery Division for solicitors, and this understanding had become statutory under the Supreme Court of Judicature Act, 1925. According to an answer given by the Attorney-General in the House of Commons it appeared that, as the salaries of the county court judges and Metropolitan police magistrates had been increased, and as the qualifications of the King's Bench Masters were substantially the same, their salaries had been increased to the same figure. The same considerations had been held not to apply to Masters of the Chancery Division. That statement seemed to the Council to imply that the salaries should be fixed according to the qualification of the person appointed and not according to his office. The Council considered that this was not the proper basis for the salaries, and that, as the duties of the Chancery Masters required as much skill and application as those of the King's Bench Masters, it seemed invidious to differentiate in the amount of their salaries because, in effect, the qualification for one office was that of a barrister and for the other that of a solicitor. They felt that this differentiation could not have been contemplated by Parliament in 1925. They hoped to pursue the matter at the next opportunity.

POOR PERSONS COMMITTEES.

The London and Provincial Poor Persons Committees had, almost without exception, been able to deal promptly with all applications and to secure the services of solicitors and barristers to an adequate extent. The Matrimonial Causes Act had resulted in a very heavy increase in the number of applications. In London the number had fallen from sixty a day at the beginning of the year to about sixteen a day, and the Council believed that the same result would also occur in the provinces when things had settled down. Some of the provincial committees had been perturbed because they had not enough solicitors available. Generally, the reason had been an insufficient number, not of solicitors' offering to do the work, but of solicitors available in the districts. A certain amount of delay must, therefore, inevitably result in certain districts before new cases could be allocated. Extension of jurisdiction to the district registries would greatly relieve the pressure on the poor persons committees. The Council confidently appealed to the committees not to relax their efforts in this public-spirited work.

Among the other activities of the Council mentioned by the Chairman were the publication of a new "Digest," including in one volume the old "Solicitors' Remuneration Digest" and the "Law, Practice and Usage in the Solicitors' Profession."

Mr. C. L. NORDON, congratulating the Chairman on the knighthood recently bestowed on him, suggested that it might perhaps be comforting to every articled clerk to feel that he had a knighthood in his wallet, but the Chairman's sterling qualities had had much to do with his choice for the honour. The only remedy he could see for the present inordinate delay, uncertainty and expense of litigation was the appointment of more judges, the construction of new law courts, and the better distribution of work among members of the Bar. It was not satisfactory to see commercial men driven to arbitration because they could not rely on having their cases tried within twelve months of entry for trial. The Lord Chancellor had indicated to the Council—it should have been the other

way round—that the remuneration of solicitors in the Court of Appeal was inadequate. The Council had been put to the indignity of pointing out that in matters of appeal the solicitor had to rely for his remuneration on what he made within his scrivenary department. No charge was to be found in the books of precedents of costs. The Council suggested that this matter should be cured by the old-fashioned item of "instructions for brief." In many appeals no brief was ever prepared or delivered, and this item should disappear. In appeals, as in other matters, solicitors should receive a proper reward for their work in conducting the case. Difficulty in obtaining proper reward was the primary cause of defalcation. An obvious and simple remedy which would increase the prestige of the profession and prevent business from slipping away was that every solicitor should present with his application for his annual practising certificate a certificate from his auditor that his accounts were in order and conformed to the rules. The Council might fix a rota of accountants willing to undertake that work at a modest fee. If a solicitor said he could not afford the fee, then the Council should pay the expense. Every bad case hit all members of the profession, and it was important to re-assure the public that money entrusted to a solicitor was safe.

The evening meetings had not been as successful as had been hoped, and the difficulty was in the choice of subjects. Some had attracted large numbers; others not very many. Subjects which were of immediate domestic concern to the profession should be brought up for discussion in good time. He hoped that in the course of time the meetings might bring within the constitution of the Society a body of convocation charged with looking after the wishes of members in subjects for discussion.

Mr. BARRY O'BRIEN said that a committee had, two or three years ago, reported on the subject of delays in the King's Bench Division and had recommended the appointment of an official, not necessarily a legal person, to be a sort of business manager to supervise or control the lists. Nothing had been done in the matter. In a case in his own office proceedings had been started in April, the hearing before the Master had been in May, and the action had been set down for trial then. By present appearances it might come on for trial about Christmas. That was in the short jury list. Could the Council, he asked, do something to further the effective carrying out of that report?

Mr. R. A. BURROWS added particulars of another case, in the non-jury short list. The summons for directions had been heard on the 7th February; the usual directions had been given, with an intimation to set it down on the 27th. On the 15th March an announcement had been made that this class of cases would be in the list. Weeks had passed by, and he was now told that all these cases had gone over the long vacation. He could not understand why they had been put in the list when they would not be heard before October.

Mr. G. D. HUGH-JONES said that great demands would be made upon the services of solicitors for poor persons' cases. The public never realised that solicitors, like doctors, did gratuitous work. It was not fair on those who did the work that other solicitors, whose offices were equally well equipped, turned a cold shoulder on the whole thing. He would welcome a statutory enactment making it compulsory for the solicitors and counsel to whom cases were allotted to conduct them. This could not be done unless some payment were made, perhaps on the lines of the National Health Insurance Panel. He would be prepared to see the remuneration fixed at 60 per cent. of the scale of charges. From 50 to 60 per cent. of the so-called "profit costs" represented overhead charges. A simple undefended divorce case attracted professional charges on the profit costs side of £15 to £50. Of that sum 60 per cent. was quite clearly overhead expenses. The solicitor was therefore paying out of his own pocket about £30 for the honour of conducting a poor person's divorce case. There was no reason why he should do so. Neither the public nor the Bar appreciated the enormously heavy overhead expenses a solicitor had to pay. A barrister had recently, with bated breath, told Mr. Hugh-Jones, that his expenses during the last year had amounted to nearly £300. No solicitor's practice of any size would expend less than £300 in overhead expenses in three months. The sooner the idea, which was referred to over and over again in the reports of the provincial law societies, that solicitors were paid by the State was dissipated or made true by statute, the better for the profession.

THE CHAIRMAN declared emphatically that his recent knighthood had nothing to do with his personal qualities but was a tribute to what solicitors were doing in public life in every sphere. It was a scandal that the report of the Business of Courts Committee, which had been unanimous, had been shelved. The Council were not omnipotent, and his fate during the past year had been to push against a number of brick walls—not a pleasant process. He hoped that no State establishment paying solicitors for what was rather unpleasant work would ever be constituted. The work they gave was voluntary and entitled them to great respect from all right-thinking people.

The report was adopted unanimously.

DEFALCATIONS: THE COUNCIL'S PLAN.

The business of the meeting being concluded, the chairman made a detailed statement of the steps which the Council had decided to take to prevent defalcation by solicitors. Before formulating these steps, he said, the Council had taken the opinion of all the provincial law societies and had considered all suggestions which they had received from members. He said:—

There were on the 1st June, 1938, 16,747 practising solicitors. On the same date the membership of The Law Society was 11,133, of whom 4,449 were London members and 6,684 were country members.

The total number of solicitors struck off the Rolls during the last ten years was 203. Of those, eighty-seven took out a London certificate and 116 took out a country certificate, and of those also, sixty-two were members of The Law Society and 141 were not members.

The relationship of the Society to members and non-members is this:—

(1) The Society is a voluntary association acting under a Charter of Incorporation;

(2) It acts as registrar for all solicitors, whether members or not;

(3) It is entrusted with the education and examination of articled clerks;

(4) It has power to make rules subject to the approval of the Master of the Rolls for the discipline of the whole body of solicitors, and under those rules it also has power to inspect their accounts, but its power of enforcement of rules is confined to making an application to the Disciplinary Committee, which is not a Committee of the Council, but a statutory body entrusted by Parliament with the power of striking solicitors off the Rolls, suspending, fining or otherwise dealing with them in respect of any malpractices alleged against them. From the findings and order of the Disciplinary Committee there exists an appeal to the Divisional Court, and it is a noticeable fact that in only one instance since 1919 has the Divisional Court interfered with a sentence passed by the Disciplinary Committee.

The subject of defalcations by solicitors has been considered by the Council at intervals since the beginning of the century, and was reported upon to the Council by special Committees in 1900, 1906, 1928, 1929 and again in 1931. Many suggestions were dealt with by these Committees for remedying the evils resulting from defalcations, and these suggestions may be classified as either "prevention" or "cure."

The suggested measures for "prevention" have been various, but in the main they fall under one or other of the following headings:—

Compulsory audit of accounts.

Compulsory membership of The Law Society.

Rules for the keeping of proper accounts and for the paying of all clients' moneys into a separate banking account.

The suggestions which have been made for the "cure" of the evils resulting from defalcations have centred round either a relief fund available for necessitous cases or some form of guarantee or insurance against losses by defalcations.

In 1929 the Council, having again considered all the suggestions which had been made, drafted a Bill to provide for a fund, to which all practising solicitors should subscribe, to be applied in contributing towards the relief of persons who had suffered loss by reason of professional misconduct of solicitors. The proposals in the Bill were referred in the first place to the Provincial Law Societies, who rejected them.

In these circumstances the Council in 1930 submitted two further proposals for the consideration of all the Provincial Law Societies; the first was that membership of The Law Society should be compulsory, with a view to the appropriation of the surplus revenue resulting from membership of all solicitors towards repayment of money losses through defalcation; the second was that every solicitor should be guaranteed by an insurance company for a limited amount and that the payment of the premium in respect of that guarantee should be a condition precedent to the issue of a practising certificate.

The first of these proposals, but not the second, was approved by the Provincial Law Societies, and a Bill was drafted to give effect to it, and also to enable the Society to make rules for the discipline of solicitors, more particularly as to the opening and keeping of banking accounts for clients' moneys and for the keeping of proper books of account. The Bill was submitted to the Annual General Meeting of members,

held on the 4th July, 1930, and was adopted subject to the omission of that part of the Bill which provided for the making of rules as to the keeping of clients' bank accounts and proper books of account.

The Bill was introduced into the House of Commons at the same time as Sir John Withers introduced a separate Bill which provided that clients' moneys should be paid into a client account at a bank, and proper books of account should be kept, and that as a condition precedent to the issue of a practising certificate every solicitor should produce a certificate from a qualified accountant that he had complied with the provisions of the Bill. Sir John Withers' Bill was read a second time and referred to a Select Committee, but The Law Society's Bill was talked out.

As a result of negotiations with Sir John Withers, his Bill was not proceeded with. Instead he submitted to the Council a new Bill, which empowered the Council to make rules for the keeping of proper accounts and provided that the issue of a practising certificate should be dependent upon the lodging either of a statutory declaration that the solicitor had complied with the Accounts Rules or a certificate of a qualified accountant to the same effect.

This Bill was submitted to the Associated Provincial Law Societies for their consideration, and they approved the suggestion that the Council should have power to make rules for the keeping of proper accounts but disapproved the suggestion as to lodging a statutory declaration or an auditor's certificate.

A fresh Bill was thereupon prepared by the Council, which finally became the Solicitors Act, 1933, under which were made the Solicitors Accounts Rules of 1935, and the Solicitors Practice Rules, 1936. The Accounts Rules provide that solicitors shall keep their clients' moneys distinct from their own moneys and shall keep proper books of account to distinguish those two sets of moneys, and that the Council shall have power to inspect solicitors' accounts in order to see whether they have complied with the Rules.

The Accounts Rules came into operation on the 1st January, 1935. The Council have exercised their power of inspection in sixty-three cases. A number of these inspections is in progress at the moment; eighteen cases have been heard by the Disciplinary Committee, and in seventeen of these cases the solicitor concerned has been struck off the Rolls, suspended from practice or fined, while in one case the solicitor was ordered to pay the costs. Other cases are pending before the Disciplinary Committee. The number of cases in which the Council have exercised their power of inspection may not be as great as some members might have expected. They will realise, however, that where the facts first brought to the attention of the Council disclose misappropriation of clients' moneys, disciplinary proceedings are taken at once, and there is no object in inspecting accounts.

Other measures which fall within the definition of "prevention" include the discretion vested in the Council to refuse a practising certificate where a solicitor has allowed it to lapse for a year, or has been suspended from practice or adjudicated bankrupt; and the provisions in the Solicitors Act, 1936, that intending solicitors must be approved by the Council before they can be articled, and that no solicitor can take an articled clerk, without the consent of the Council, until he has been in practice for five years.

The Council's Decisions.

The Council are of opinion that the best way to deal with the subject of defalcations is to take more effective and prompter action where cases of possible future default are reported, and to exercise greater control over the issue of practising certificates. They have accordingly decided to take the following steps:—

(1) To create a permanent legal department of The Law Society under the control of a solicitor in the whole-time employ of the Society to undertake all disciplinary work and the necessary preliminary investigations.

The Council consider that the legal department will be able to devote the whole of its time to the disciplinary side of the work of the Council. At present an outside solicitor is instructed who devotes part of his time to attending to his other clients. The Council believe that the creation of a legal department will eventually result in the disciplinary work being expedited and its general efficiency increased.

(2) To employ on the Society's staff an accountant who can carry out more speedily and with a greater degree of uniformity inspections under the Accounts Rules.

The same considerations as apply to a legal department apply to an accountancy department, and the Council consider that there may in the future be a considerable saving of expense to the Society if the number of inspections increases.

(3) To promote legislation to provide that every solicitor on applying for his annual practising certificate shall be required personally to make a declaration that to the best of his knowledge and belief he has complied with the Accounts Rules, and such rules shall be printed in full on the form of declaration or on the back thereof.

Several cases have occurred in which solicitors accused of breaches of the Accounts Rules have pleaded that the rules were not brought to their attention, or that they never appreciated their full effect. The Council consider that the making of a declaration of compliance with the rules will not only render impossible excuses of this nature but will be in itself salutary.

The form of declaration will be so drafted as to cover the case not only of a solicitor practising on his own account but of a solicitor exempt from the operation of the rules by virtue of ss. 4, 5, 6 and 7 of the Solicitors Act, 1933, and of an employed solicitor who does not practise on his own account.

As in certain cases it may be impossible through illness or absence abroad for a solicitor personally to make such a declaration, power will be reserved to the Council at their discretion to dispense with the necessity for it. Under the existing procedure a form of declaration, which is set out in the Third Sched. to the Solicitors Act, 1932, may be completed by the solicitor, his partner, or his London agent.

(4) To promote legislation empowering the Council to refuse to issue a practising certificate in certain cases additional to those in which they already have that power, and instead of refusing to issue a certificate, to issue a certificate only subject to such terms or conditions as the Council, in their discretion, may think fit.

The existing cases where a certificate may be refused are where a solicitor is an undischarged bankrupt or a lunatic, or first applies after being restored to the Roll or suspended from practice, or where he has not taken out a practising certificate within one year of admission or has allowed his certificate to lapse for at least a year.

The additional cases in which the Council will ask for a discretion to refuse to issue a certificate or to issue a certificate subject to conditions are where a solicitor:—

(*a*) has been notified that he has failed to give to the Council an explanation, which they regard as sufficient or satisfactory, of any matter in respect of which the Council may have invited him to give an explanation;

(*b*) has had an order made against him for the issue of a writ of attachment;

(*c*) has had a receiving order in bankruptcy made against him;

(*d*) has had given against him any judgment and has not produced evidence of its satisfaction; and

(*e*) has entered into a composition with, or a deed of arrangement for the benefit of, his creditors.

(5) To invite all provincial law societies to report at as early a date as possible any case in which they may believe or suspect that a solicitor may be in financial difficulties or may not have complied with the Accounts Rules, so that the Council may consider the desirability of inspecting accounts before the defalcations (if any) are of substantial amount.

(6) To amend r. 6 of the Solicitors Accounts Rules, 1935, so as to make failure to produce accounts at the place and on the date fixed a more serious and certain offence and to prevent the frivolous objections, excuses and evasions which it has become the practice to make on almost every occasion that a solicitor is required to produce his accounts under the Rules.

The reason for the amendments of the existing Rule is that it has been found in practice that a solicitor who has been required to produce his accounts has been able to raise technical difficulties which have resulted in unnecessary delay, and the new rule is designed to prevent such delays.

Normally, the Council will continue to require the production of a solicitor's books at his own office, as they have done in the past.

(7) To promote legislation to provide that adjudication in bankruptcy of any solicitor shall operate immediately to suspend his practising certificate, and that the fact that a certificate has been suspended for such a cause shall be published in the same manner as are findings and orders of the Disciplinary Committee at the present time, but with the safeguard that a solicitor whose practising certificate has been so suspended may apply for its renewal, while still an undischarged bankrupt, which application the Council shall have a discretion to refuse or to grant subject to conditions.

(8) To promote legislation to empower the Council at their discretion to refuse to permit a solicitor to take an articled clerk in any case in which the Council have a discretion to refuse to issue a practising certificate to such solicitor.

(9) To circulate to provincial law societies lists of solicitors proposing to take articled clerks and lists of persons applying for leave to enter into articles of clerkship, with an invitation to supply information about such solicitors and applicants, and

(10) To promote legislation to empower the Council to prohibit a solicitor from employing, without their permission, an unadmitted clerk who may have been found by the Disciplinary Committee to have been party to the misconduct of a solicitor whose name has been struck off the Rolls or who has been suspended from practice, fined or censured by the Disciplinary Committee.

The Council consider this measure is desirable, because it is within their knowledge that in a number of cases an unqualified clerk has been in the offices of successive solicitors, each of whom has been struck off the Rolls by the Disciplinary Committee for defaults of the clerk and for not exercising proper supervision over that clerk, in circumstances which lead to the conclusion that the clerk was in the effective control of the practice.

Legislation to give effect to this proposal might follow some such form as is provided in s. 52 of the Solicitors Act, 1932, under which a solicitor is required to obtain the permission of the Council before he may employ or remunerate any person whose name has been struck off the Rolls or who has been suspended from practice as a solicitor.

These are the steps that the Council have decided to take.

Rejected Suggestions.

I should, however, add that the Council have examined every suggestion that has been made, and I propose to deal with certain suggestions which, though they may at first sight appear attractive and receive a certain measure of support, the Council do not consider they should adopt.

These other suggestions are as follows :—

(1) That every solicitor should be required to take out a guarantee policy or fidelity bond as a condition precedent to the issue of a practising certificate, or that The Law Society should do so on behalf of all solicitors, or that there should be put into operation some variation of this scheme, e.g., that a monetary deposit should be made by each solicitor on admission, or a guarantee be given in his behalf by two other members of the Society for a fixed amount, or that the Government should be requested to pay over to the Society towards an indemnity fund either the whole or part of the moneys received in stamp duties on articles of clerkship and on the annual practising certificates.

Suggestions on these lines were rejected in 1906, and subsequently, on the ground that in no other profession or business were members under obligation to answer for the defaults of competitors, and as the volume of business of solicitors varied considerably it would be unfair to make the whole body of members mutually responsible. It was thought that, while any compulsory obligation would be impracticable, a voluntary combination would be unfair to young solicitors and others in small practice, and that if solicitors were required to deliver a bond many entirely eligible persons would never be able to join the profession. There was also the legal difficulty that it would not be possible for a solicitor to effect a valid insurance against the consequences of his own criminal or fraudulent acts.

The Council's suggestion for a fund was rejected by the provincial Law Societies in 1929, and the Council are satisfied that any such proposal would not have the support of the profession as a whole.

(2) That legislation should be promoted to provide for compulsory membership of The Law Society.

The Council consider that no useful purpose would be served by compulsory membership, as the only objects of procuring legislation to this end are :—

(i) To secure more effective control over the whole profession ; and

(ii) To raise additional funds for the purpose of forming a guarantee or indemnity fund.

The Council consider that the Solicitors Act, 1933, by empowering them to make rules for regulating the professional practice, conduct and discipline of solicitors, gives the Council sufficient power over the whole profession, and for the reasons mentioned above they do not consider a guarantee or indemnity fund is acceptable ; but even assuming that this were not the case, they consider that the necessary funds could be raised by imposing an additional charge on the issue of each practising certificate, without changing the voluntary nature of membership of the Society.

(3) That legislation should be promoted to provide for the compulsory audit of accounts.

The Council consider that no effective purpose would be served by any such provision. In their view the profession would be put to an expense which they ought not to be called upon to bear. It would impose upon young solicitors, and particularly those practising in the provinces, a burden out of proportion to any good which might result from such a measure. They consider that the Solicitors Accounts Rules, 1935, already sufficiently indicate to solicitors the way in which their accounts should and must be kept and that a compulsory audit of accounts would not prevent a solicitor who intends to misappropriate clients' moneys from so doing, as there is no substantial difficulty in submitting to the accountant only such statements of account as will agree with the balances on clients' account at the bank during the accounting period.

Furthermore, no audit would be effective unless the auditor could satisfy himself as to what deeds or securities were in the solicitor's possession at the beginning of the accounting period, and could obtain details of and vouchers for any receipts and payments arising out of the disposal of any deeds or securities not produced.

(4) That power should be obtained to make rules under the Solicitors Act, 1933, without the necessity for obtaining the approval of the Master of the Rolls.

The Council are satisfied that no legislation to this end could be promoted successfully, even if it were desirable.

(5) That solicitors should be restricted from practising alone, except upon terms, as, for example, lodging some form of guarantee.

The Council realise that of the solicitors who have defaulted the substantial majority have been in practice alone, but they consider that it must be borne in mind that the number of defaulters is very small compared with the total number of solicitors practising alone. Moreover, the Council consider that any such measure as is suggested would not be fair to young solicitors.

(6) That compulsory scales of solicitors' charges should be enforced.

The Council do not consider that any such provision would be effective to prevent defalcations.

(7) That legislation should be promoted to prohibit sole trusteeship and the grant of powers of attorney to one person.

The Council consider that this raises a matter of public policy, and not one which directly affects the profession as such, and they express no opinion upon the desirability of amending the law in this connection. They take the view that so long as it is legal for a sole trustee or sole attorney acting under a power to be appointed, there can be no objection to a solicitor being so appointed, nor do they feel that they should interfere with the rights of a solicitor trustee.

The Council, concluded the President, could claim that they had spared no effort in working out the conclusions they had reached, and believed with some confidence that the remedies they had found would in future years prove to be effectual. Notice of these decisions would be sent to every practising solicitor.

Award of Studentships for 1938.

The Council, acting on the recommendation of the Legal Education Committee, have made the following award of five Studentships of the annual value of £f0 each, tenable for one year, but renewable at the discretion of the Council :—

Class A (candidates under nineteen years of age) :—

Mr. Gurth Louis Francis Addington (educated at the Royal Naval College and Downside ; proposes to be articled to Messrs. Arnold, Fooks, Chadwick & Co., of London, after taking the year's course before Articles).

Mr. Terence Montmirail Sutton Mattocks (educated at St. Paul's School and The Law Society's School ; articled to Mr. F. G. Sutton-Mattocks, of London).

Mr. Dennis Worsley Westbrook (educated at Dean Close School, Cheltenham ; proposes to be articled to Mr. J. Westbrook, of Hyde).

Class B (candidates with not less than two years' articles to serve from 1st June, 1938) :—

Mr. James Holland George (educated at Dulwich College and The Law Society's School ; articled to Mr. H. Teesdale, of London).

Mr. John Dexter Stocker (educated at Westminster School and The Law Society's School ; proposes to be articled to Messrs. Wigan & Co., of London).

Honourable Mention :—

Mr. Joseph Besserman (Class B) (educated at Owen's School and The Law Society's School ; articled to Mr. E. R. Kisch, of London).

Parliamentary News.

Progress of Bills.

ROYAL ASSENT.

The following Bills received the Royal Assent on the 13th July :—

Baking Industry (Hours of Work).
Blackburn Corporation.
Children and Young Persons.
Clacton Urban District Council.
Cowes Urban District Council.
Derwent Valley Water.
Dumbarton Burgh (Water) Order Confirmation.
Harwich Harbour.
Herring Industry.
Housing (Agricultural Population) (Scotland).
Inheritance (Family Provision).
London and North Eastern Railway.
Mental Deficiency.
Ministry of Health Provisional Order Confirmation (Calne Water).
Ministry of Health Provisional Order Confirmation (Cholderton and District Water).
Ministry of Health Provisional Order Confirmation (Keighley).
Ministry of Health Provisional Order Confirmation (Torquay).
Pier and Harbour Provisional Order (Clacton-on-Sea) Confirmation.
Post Office (Sites).
Provisional Order (Marriages) Confirmation.
Redcar Corporation.
Road Haulage (Wages).
Sheffield and District Gas.
Shropshire Worcestershire and Staffordshire Electric Power (Consolidation).
Southern Railway.
Street Playgrounds.
Surrey County Council.
Swinton and Pendlebury Corporation.
Welsh Church (Amendment).
West Thurrock Estate.

House of Lords.

Anglo-Turkish (Armaments Credit) Agreement Bill.
Read First Time. [13th July.
Bacon Industry Bill.
Read Second Time. [11th July.
British Museum Bill.
Read Third Time. [11th July.
Chimney Sweepers Acts (Repeal) Bill.
Read Second Time. [13th July.
Essential Commodities Reserves Bill.
Read Second Time. [11th July.
Fire Brigades Bill.
Read Second Time. [12th July.
Green Belt (London and Home Counties) Bill.
Read Second Time. [12th July.
Hire-Purchase Bill.
Amendments reported. [12th July.
Imperial Telegraph Bill.
Read Second Time. [12th July.
Ipswich Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [13th July.
Land Drainage Provisional Order (Louth Drainage District) Bill.
Read First Time. [12th July.
Limitation Bill.
Read Third Time. [13th July.
Local Government (Hours of Poll) Bill.
Read Second Time. [12th July.
Lochaber Water Power Order Confirmation Bill.
Considered on Report. [12th July.
London County Council (Tunnel and Improvements) Bill.
Reported, with Amendments. [7th July.
Middlesex County Council (Sewerage) Bill.
Read Second Time. [7th July.
Ministry of Health Provisional Order (Bucks Water Board) Bill.
Read Second Time. [13th July.
Ministry of Health Provisional Order (Church Stretton) Bill.
Read Second Time. [13th July.
Ministry of Health Provisional Order (Cirencester) Bill.
Read Second Time. [13th July.
Ministry of Health Provisional Order (Horsforth) Bill.
Read Second Time. [13th July.
Ministry of Health Provisional Order (Llandrindod Wells) Bill.
Read Second Time. [13th July.
Ministry of Health Provisional Order (Mid-Staffordshire Joint Hospital District) Bill.
Read First Time. [11th July.
Ministry of Health Provisional Order (Rawmarsh) Bill.
Read Second Time. [13th July.
Ministry of Health Provisional Order (Wath-upon-Dearne) Bill.
Read Second Time. [13th July.
Naval Discipline (Amendment) Bill.
Read First Time. [13th July.
Newcastle and Gateshead Waterworks Bill.
Reported, with Amendments. [12th July.
Newcastle-upon-Tyne Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [13th July.
Pier and Harbour Provisional Order (Plymouth) Bill.
Read Second Time. [13th July.
Registration of Still-Births (Scotland) Bill.
Reported, with Amendments. [12th July.
Road Haulage Wages (No. 2) Bill.
Read Third Time. [7th July.
West Hartlepool Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [13th July.
West Midlands Joint Electricity Authority Provisional Order Bill.
Read Second Time. [13th July.
Young Persons (Employment) Bill.
Read Third Time. [7th July.

House of Commons.

Administration of Justice (Miscellaneous Provisions) Bill.
Reported, with Amendments. [11th July.
Anglo-Turkish (Armaments Credit) Agreement Bill.
Read Third Time. [12th July.
Bristol Corporation Bill.
Amendments agreed to. [13th July.
Chichester Corporation Bill.
Reported, with Amendments. [7th July.
Coal Bill.
Lords Amendments considered. [7th July.
Divorce and Nullity of Marriage (Scotland) Bill.
Read Third Time. [12th July.
Finance Bill.
Amendments considered. [12th July.
Food and Drugs Bill.
Read Third Time. [12th July.
Gateshead and District Tramways and Trolley Vehicles Bill.
Reported, with Amendments. [13th July.
Holidays with Pay Bill.
Read First Time. [7th July.
Lancashire County Council (Rivers Board and General Powers) Bill.
Reported, with Amendments. [7th July.
Land Drainage Provisional Order (Louth Drainage District) Bill.
Read Third Time. [11th July.
Milk (Extension and Amendment) Bill.
Reported without Amendment. [12th July.
Ministry of Health Provisional Order (Mid-Staffordshire Joint Hospital District) Bill.
Read Third Time. [8th July.
Naval Discipline (Amendment) Bill.
Read Third Time. [12th July.
Protection of Animals (No. 2) Bill.
Withdrawn. [11th July.
Protection of Animals (No. 3) Bill.
Read First Time. [13th July.
Rating and Valuation (Air-Raid Works) Bill.
Read First Time. [7th July.
Rating and Valuation (Air-Raid Works) (Scotland) Bill.
Read First Time. [7th July.
Road Haulage Wages (No. 2) Bill.
Lords Amendments agree to. [12th July.
Stanmore Unused Burial Ground Bill.
Reported with Amendments. [7th July.
Tatton Estate Bill.
Read Second Time. [11th July.
War Department Property Bill.
Read Second Time. [12th July.
Warrington Corporation Water Bill.
Reported, with Amendments. [13th July.
Wear Navigation and Sunderland Dock Bill.
Reported, with Amendments. [13th July.
West Yorkshire Gas Distribution Bill.
Read Second Time. [7th July.

Legal Notes and News.

Honours and Appointments.

The King has, by Royal Warrant, appointed Mr. FREDERIC AKED SELLERS, K.C., to be Recorder of the Borough of Bolton.

The Colonial Office announces that the King has been pleased to approve the appointment of Mr. MAURICE VIVIAN CAMACHO, Attorney-General, Jamaica, to be Chief Justice of British Guiana in succession to Sir Bernard Crean, who, as already announced, has been appointed Chief Justice of Cyprus.

The Lord Chancellor has appointed Mr. FRANCIS SAM BUTTER to be the Registrar of Shrewsbury and Whitchurch County Courts and District Registrar in the District Registry of the High Court of Justice in Shrewsbury as from the 11th day of July, 1938. Mr. Butter was admitted a solicitor in 1912.

Professor P. H. WINFIELD and Lieutenant-Colonel H. L. EASON, Principal of the University of London, have been elected honorary Masters of the Bench of the Inner Temple.

Mr. OSWALD ALFRED RADLEY, LL.B., solicitor, Deputy Town Clerk of Leeds, has been appointed Town Clerk as from 6th September next on the retirement of Mr. Thomas Thornton. Mr. Radley served his articles with Mr. E. A. Plant, Town Clerk of Congleton, and Messrs. Sharpe, Pritchard & Co., of London, and was admitted a solicitor in 1911. He was appointed Assistant Solicitor to Leeds Corporation in 1913, and became Deputy Town Clerk in 1925.

Mr. JAMES BOOTH, LL.B. Manchester, barrister-at-law, of the Town Clerk's Department, Lancaster, has been appointed Chief Legal Assistant to the Lancaster City Council. Mr. Booth was called to the Bar by Gray's Inn in 1936.

Notes.

At a meeting held in the Courts of Justice in Brussels it was decided to form a Belgian-Luxemburg section of the International Law Association. M. Albert Devèze, *bâtonnier* of the Brussels Bar, is president.

Mr. E. C. P. Boyd, magistrate at Marlborough Street Police Court, will sit in one of the three courts at Bow Street during the next few weeks in place of Mr. Harold McKenna, who is ill.

The President of The Law Society (Sir Francis Smith), the Vice-President (Mr. W. W. Gibson), and the Council entertained a large number of guests at dinner at the Society's Hall, on Thursday, 7th July.

The British Medical Association is holding its 106th annual meeting at Plymouth, beginning on Friday, 15th July, and will remain in conference for a week. Dr. Colin D. Lindsay will deliver his presidential address next Tuesday.

Court Papers.

Supreme Court of Judicature.

Date.	Emergency Rota.	Appeal Court No. I.	Group II. Mr. Justice Luxmoore. Witness Part II.	Mr. Justice Farwell. Witness Part I.
	Mr.	Mr.	Mr.	Mr.
July 18	Blaker	Andrews	*Blaker	*Ritchie
,, 19	More	Jones	*More	*Blaker
,, 20	Hicks Beach	Ritchie	*Hicks Beach	*More
,, 21	Andrews	Blaker	*Andrews	Hicks Beach
,, 22	Jones	More	*Jones	Andrews
,, 23	Ritchie	Hicks Beach	Ritchie	Jones
	Group II. Mr. Justice Morton. Non-Witness	Mr. Justice Bennett. Witness Part II.	Group I. Mr. Justice Crossman. Non-Witness	Mr. Justice Simonds. Witness Part I.
	Mr.	Mr.	Mr.	Mr.
July 18	More	Andrews	Jones	*Hicks Beach
,, 19	Hicks Beach	Jones	Ritchie	*Andrews
,, 20	Andrews	Ritchie	Blaker	*Jones
,, 21	Jones	Blaker	More	*Ritchie
,, 22	Ritchie	More	Hicks Beach	*Blaker
,, 23	Blaker	Hicks Beach	Andrews	More

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 21st July 1938.

	Div. Months.	Middle Price 13 July 1938.	Flat Interest Yield.	‡ Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	110¼	3 12 7	3 5 4
Consols 2½%	JAJO	76	3 5 9	—
War Loan 3½% 1952 or after ...	JD	103⅛	3 7 11	3 4 5
Funding 4% Loan 1960-90	MN	114½	3 9 10	3 1 8
Funding 3% Loan 1959-69	AO	98¾	3 0 9	3 1 3
Funding 2¾% Loan 1952-57	JD	96¾	2 16 10	2 19 6
Funding 2½% Loan 1956-61	AO	91¼	2 14 9	3 0 7
Victory 4% Loan Av. life 22 years ...	MS	112⅜	3 10 11	3 3 8
Conversion 5% Loan 1944-64 ...	MN	114½	4 7 4	2 3 0
Conversion 3½% Loan 1961 or after	AO	103⅜	3 7 6	3 5 3
Conversion 3% Loan 1948-53 ...	MS	102½	2 18 6	2 14 0
Conversion 2½% Loan 1944-49 ...	AO	100	2 10 0	2 10 0
Local Loans 3% Stock 1912 or after	JAJO	89	3 7 5	—
Bank Stock	AO	349½	3 8 8	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	84	3 5 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	90	3 6 8	—
India 4½% 1950-55	MN	113	3 19 8	3 3 7
India 3½% 1931 or after	JAJO	95	3 13 8	—
India 3% 1948 or after	JAJO	81½	3 13 7	—
Sudan 4½% 1939-73 Av. life 27 years	FA	109½xd	4 2 2	3 18 5
Sudan 4% 1974 Red. in part after 1950	MN	110	3 12 9	2 19 11
Tanganyika 4% Guaranteed 1951-71	FA	110xd	3 12 9	3 1 1
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	106	4 4 11	2 12 11
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	91xd	2 14 11	3 3 3
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	102	3 18 5	3 16 8
Australia (Commonw'th) 3% 1955-58	AO	89	3 7 5	3 15 11
*Canada 4% 1953-58	MS	109	3 13 5	3 4 7
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
New South Wales 3½% 1930-50 ...	JJ	96	3 12 11	3 18 6
New Zealand 3% 1945	AO	94	3 3 10	4 1 6
Nigeria 4% 1963	AO	108	3 14 1	3 10 3
Queensland 3½% 1950-70	JJ	96	3 12 11	3 14 5
*South Africa 3½% 1953-73	JD	102	3 8 8	3 6 7
Victoria 3½% 1929-49	AO	98	3 11 5	3 14 5
CORPORATION STOCKS				
Birmingham 3% 1947 or after ...	JJ	86	3 9 9	—
Croydon 3% 1940-60	AO	96	3 2 6	3 5 2
*Essex County 3½% 1952-72 ...	JD	103	3 8 0	3 4 7
Leeds 3% 1927 or after	JJ	86	3 9 9	—
Liverpool 3½% Redeemable by agreement with holders or by purchase...	JAJO	101	3 9 4	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	73	3 8 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	87	3 9 0	—
Manchester 3% 1941 or after ...	FA	86xd	3 9 9	—
Metropolitan Consd. 2½% 1920-49 ...	MJSD	99	2 10 6	2 12 2
Metropolitan Water Board 3% "A" 1963-2003	AO	90	3 6 8	3 7 8
Do. do. 3% "B" 1934-2003 ...	MS	92	3 5 3	3 6 0
Do. do. 3% "E" 1953-73 ...	JJ	96	3 2 6	3 3 10
*Middlesex County Council 4% 1952-72	MN	107	3 14 9	3 7 3
* Do. do. 4½% 1950-70	MN	113	3 19 8	3 3 7
Nottingham 3% Irredeemable ...	MN	86	3 9 9	—
Sheffield Corp. 3½% 1968	JJ	101½	3 9 0	3 8 5
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture ...	JJ	109½	3 13 1	—
Gt. Western Rly. 4½% Debenture ...	JJ	115½	3 17 11	—
Gt. Western Rly. 5% Debenture ...	JJ	130½	3 16 8	—
Gt. Western Rly. 5% Rent Charge ...	FA	127½	3 18 5	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	127½	3 18 5	—
Gt. Western Rly. 5% Preference ...	MA	111½	4 9 8	—
Southern Rly. 4% Debenture ...	JJ	108	3 14 1	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	107	3 14 9	3 11 2
Southern Rly. 5% Guaranteed ...	MA	126½	3 19 1	—
Southern Rly. 5% Preference ...	MA	109½	4 11 4	—

* Not available to Trustees over par.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.